



**TABLE OF CONTENTS**

**October 28, 2016 Volume 40, Issue 44**

**PROPOSED RULES**

ENVIRONMENTAL PROTECTION AGENCY

General Conditions of State of Illinois Grants for Sewage Treatment Works Under the Anti-Pollution Bond Act of 1970  
35 Ill. Adm. Code 360.....14374

Procedure for Issuing Grants From the Anti-Pollution Bond Act and the Build Illinois Act for Sewage Treatment Works  
35 Ill. Adm. Code 363.....14386

General Conditions of Grants for the Financing and Construction of Public Water Supply Facilities  
35 Ill. Adm. Code 661.....14404

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF

Illinois Credit Union Act  
38 Ill. Adm. Code 190.....14443

Clinical Psychologist Licensing Act (Repealer)  
68 Ill. Adm. Code 1400.....14490

Clinical Psychologist Licensing Act (New Part)  
68 Ill. Adm. Code 1400.....14519

LABOR RELATIONS BOARD, ILLINOIS

General Procedures  
80 Ill. Adm. Code 1200.....14568

Impasse Resolution  
80 Ill. Adm. Code 1230.....14574

POLLUTION CONTROL BOARD

Sewer Discharge Criteria  
35 Ill. Adm. Code 307.....14580

Pretreatment Programs  
35 Ill. Adm. Code 310.....14602

**ADOPTED RULES**

HEALTH FACILITIES AND SERVICES REVIEW BOARD

Health Facilities and Services Review Operational Rules  
77 Ill. Adm. Code 1130.....14647

INSURANCE, DEPARTMENT OF

Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds  
50 Ill. Adm. Code 4404.....14751

LABOR RELATIONS BOARD, ILLINOIS

Public Information, Rulemaking and Organization  
2 Ill. Adm. Code 2500.....14757

REVENUE, DEPARTMENT OF

Income Tax

86 Ill. Adm. Code 100.....	14762
<b>SECOND NOTICES RECEIVED</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	14777
<b>OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED</b>	
<b>IN THE ILLINOIS REGISTER</b>	
POLLUTION CONTROL BOARD	
Notice of Public Information (Water Pollution Control Act).....	14778
Notice of Public Information (State Implementation Plan	
Submittals for National Ambient Air Quality Standards).....	14780
Notice of Public Information (State Implementation Plan	
Submittals for Ozone).....	14784
<b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>	
PROCLAMATIONS	
Independent Retailers Week	
2016-262.....	14787
American Pharmacists Month	
2016-263.....	14787
Breast Cancer Awareness Month and Mammography Day	
2016-264.....	14788
Certified Veterinary Technicians Week	
2016-265.....	14789
College Changes Everything Month	
2016-266.....	14790
Cooperative Week	
2016-267.....	14791
Diabetes Awareness Month	
2016-268.....	14792
Fire Prevention Week	
2016-269.....	14793
Get Smart About Antibiotics Week	
2016-270.....	14794
Lights On Afterschool Day	
2016-271.....	14795
National Service Recognition Day	
2016-272.....	14796
Project Management Institute Day	
2016-273.....	14796
Week for the Animals	
2016-274.....	14797
National Bullying Prevention Month	
2016-275.....	14798
National Cyber Security Awareness Month	
2016-276.....	14799
AIDS Awareness Month	

2016-277.....	14800
Down Syndrome Awareness Month	
2016-278.....	14800
Pregnancy and Infant Loss Remembrance Day	
2016-279.....	14801
National Sudden Infant Death Syndrome Awareness Month	
2016-280.....	14802
National Dropout Prevention Month	
2016-281.....	14803
Keep Chicago Beautiful Day	
2016-282.....	14803
NET Cancer Awareness Day	
2016-283.....	14804
Suits for Soldiers Day	
2016-284.....	14805
World Pancreatic Cancer Day	
2016-285.....	14806
Childhood Lead Poisoning Prevention Week	
2016-286.....	14807
Flag Lowering Order for Officer Blake Snyder	
2016-287.....	14807
Great ShakeOut Day	
2016-288.....	14808
Nobel Prize for Sir Fraser Stoddart, Northwestern University	
2016-289.....	14809
<b>EXECUTIVE ORDERS</b>	
Executive Order Rescinding Executive Order Number 2 (2004)	
2016-12.....	14811
Executive Order Establishing the Illinois Competitiveness Council	
2016-13.....	14812

## INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2016

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

---

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2016 until January 3, 2017.

---

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Conditions of State of Illinois Grants for Sewage Treatment Works Under the Anti-Pollution Bond Act of 1970.
- 2) Code Citation: 35 Ill. Adm. Code 360
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
360.103	Amendment
360.203	Amendment
360.306	Amendment
360.805	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act (30 ILCS 405/1 et seq.)
- 5) A Complete Description of the Subjects and Issues Involved: Under current rule, in the event a grantee (recipient of a sewage treatment works grant under the Anti-Pollution Bond Act) becomes eligible for a grant of federal funds or state funds for a project from other than the Anti-Pollution Fund, the grantee must repay the State of Illinois any Anti-Pollution Fund funds received exceeding 75 percent of the approved allowable cost of the project. The state funds are deposited back into the Anti-Pollution Fund. The proposed amendments establish procedures for the Agency to, under the same scenario, have the grantee repay the State of Illinois any funds received exceeding 100 percent of the approved allowable cost of the project. Additionally, the proposed amendments update statutory references, correct typographical errors, and clarify that the collection of grant funds, previously paid or owing when a grantee terminates a project, are not a settlement for the collection of those funds.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on the proposed rules may submit them in writing by no later than 45 days after publication of this Notice to:  
  
Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield IL 62794-9276  
  
217/782-5544  
Rex.Gradeless@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: The reporting, bookkeeping, and procedures required for compliance remain in effect.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: 40 Ill. Reg. 9271; July 8, 2016.

The full text of the Proposed Amendments begins on the next page:

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 360

GENERAL CONDITIONS OF STATE OF ILLINOIS GRANTS FOR SEWAGE  
TREATMENT WORKS UNDER THE ANTI-POLLUTION BOND ACT OF 1970SUBPART A: LIABILITIES AND REMEDIES FOR FAILURE TO  
COMPLY WITH GRANT CONDITIONS

## Section

360.101	Noncompliance with Grant Conditions
360.102	Stop-Work Order
360.103	Termination
360.104	Waiver of Conditions

## SUBPART B: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

## Section

360.201	Contents of Grant Applications
360.202	Sewer System Evaluation and Rehabilitation
360.203	Facilities Planning
360.204	Covenant Against Contingent Fees
360.205	Areawide Waste Treatment Management Planning

## SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

## Section

360.301	General Conditions for all Subagreements
360.302	Construction Contracts of Grantee
360.303	Contracts for Personal and Professional Services – Consulting Engineering Agreements
360.304	Equal Opportunity
360.305	Compliance With Procurement Requirements
360.306	Disputes
360.307	Indemnity

## SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION, AMENDMENT,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

COMPLETION AND OPERATION OF PROJECT

- Section
- 360.401 Project Initiation
- 360.402 Project Changes
- 360.403 Supervision
- 360.404 Project Sign
- 360.405 Final Inspection
- 360.406 Operation and Maintenance

SUBPART E: REQUIREMENTS APPLICABLE TO ACCESS,  
AUDITING, AND RECORDS

- Section
- 360.501 Access
- 360.502 Audit and Records
- 360.503 Reports

SUBPART F: REQUIREMENTS FOR SEWER USE ORDINANCE,  
USER CHARGES AND FLOOD PLAIN INSURANCE

- Section
- 360.601 Sewer Use Ordinance
- 360.602 User Charges
- 360.603 Flood Plain Insurance

SUBPART G: INCORPORATED REQUIREMENTS

- Section
- 360.701 Statutory Conditions
- 360.702 Incorporation of Documents

SUBPART H: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

- Section
- 360.801 Determination of Allowable Costs
- 360.802 Amount of Grant-Percentage of Approved Allowable Costs
- 360.803 Use of Grant and Payment of Non-Allowable Costs
- 360.804 Grant Payment Schedule

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

360.805 Other Federal or State Grants

360.APPENDIX A General Conditions of Construction Contract Document (Document No. 11 of the Contract Documents for Construction of Federally Assisted Water and Sewer Projects)

360.APPENDIX B Access to Records – Audit (Existing Consulting Engineering Agreement) (applicable to consulting engineering agreements entered into between June 30, 1975 and July 1, 1976)

360.APPENDIX C Required Provisions – Consulting Engineering Agreements (Applicable to consulting engineering agreements entered into after July 1, 1976)

360.APPENDIX D Procedures for Determination of Indirect Costs and Indirect Cost Rates

AUTHORITY: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405].

SOURCE: Adopted August 27, 1976; amended at 6 Ill. Reg. 10941, effective September 15, 1982; codified at 7 Ill. Reg. 9295; amended at 16 Ill. Reg. 5891, effective March 31, 1992; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: LIABILITIES AND REMEDIES FOR FAILURE TO  
COMPLY WITH GRANT CONDITIONS

**Section 360.103 Termination**

a) Grant Termination by Agency

The Agency, by written notice and after consultation with the grantee, may terminate the grant, in whole or in part. Cause for termination shall include, but not be limited to: default by the grantee, failure by the grantee to comply with the terms and conditions of the grant, realignment of programs, change in program requirements or priorities, lack of adequate funding, or advancements in the state of the art. Upon ~~such~~ termination, the grantee shall refund to the State of Illinois Anti-Pollution Fund any unexpended grant funds, except ~~that~~~~such~~ portion ~~of those~~ ~~fundsthereof~~ as may be required by the grantee to make payment for materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination and further provided that ~~thosesuch~~ costs are otherwise allowable under the conditions of this grant.

b) Project Termination by Grantee

The grantee may not terminate a project for which the grant has been awarded,

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

except for good cause. If the Agency finds that there is good cause for the termination of all or any portion of a project for which the grant has been awarded, it shall enter into a termination agreement or unilaterally terminate the grant, effective with the date of termination of the project by the grantee. If the Agency finds that the grantee has terminated the project without good cause, then the grant shall be annulled and all grant funds previously paid or owing to the grantee shall be returned to the State of Illinois Anti-Pollution Fund ~~as final settlement.~~

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

**Section 360.203 Facilities Planning**

- a) The grantee shall undertake and complete facilities planning ~~that~~~~which~~ shall consist of plans and studies ~~that~~~~which~~ are directly related to the construction of publicly owned treatment works to comply with the provisions of the Environmental Protection Act [415 ILCS 5] ~~(Ill. Rev. Stat. 1975, ch. 111½, pars. 1001 et seq.)~~ and regulations adopted ~~under the Act~~~~thereunder~~ or Sections 301 and 302 of the Federal Water Pollution Control Act (PL 92-500, as amended) and regulations adopted ~~under that Act~~~~thereunder~~, whichever are more stringent. The grantee shall demonstrate to the satisfaction of the Agency through ~~those~~~~such~~ plans and studies the need for ~~those~~~~such~~ facilities and, by a systematic evaluation of feasible alternatives, shall also demonstrate that the proposed measures represent the most cost-effective means of meeting applicable effluent limitations and water quality standards and goals, recognizing environmental and social conditions.
- b) If the information required to be furnished as part of a facilities plan has been developed separately, it should be furnished and incorporated by reference in the facilities plan. Planning previously or collaterally accomplished under local, ~~State~~~~state~~ or federal programs will be utilized (not duplicated).
- c) The completed facilities plan must be submitted by the grantee and approved by the Agency. ~~When~~~~Where~~ deficiencies in a facilities plan are discovered, the Agency shall promptly notify the grantee in writing of the nature of ~~those~~~~such~~ deficiencies and of the recommended course of action to correct ~~them~~~~such~~ ~~deficiencies~~. Approval of a plan of study or a facilities plan will not constitute an

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

obligation of the State of Illinois or the Agency for any Step 2, Step 3, or combination Steps 2 and 3 project.

- d) A facilities plan submitted for approval shall include adopted resolutions or, ~~when~~where applicable, executed agreements of the implementing governmental units or management agencies providing for acceptance of the plan, or assurances that it will be carried out, and statements of legal authority necessary for plan implementation.
- e) A facilities plan may include more than one Step 3 project and provide the basis for several subsequent Step 2, Step 2-3, or Step 3 projects. A facilities plan ~~that~~which has served as the basis for the award of a grant for a Step 2, Step 2-3, or Step 3 project shall be reviewed prior to the award of any grant for a subsequent project involving Step 2 or Step 3 to determine if substantial changes have occurred. If in the judgement of the Agency, substantial changes have occurred ~~that~~which warrant revision or amendment, the plan shall be revised or amended and submitted for review in the same manner specified in subsection (c)~~-above~~.
- f) Facilities planning must be in accordance with the following requirements; and such other requirements as may be determined to be appropriate by the Agency. ~~The~~Such facilities plan shall include:
- 1) A description of the treatment works for which construction drawings and specifications are to be prepared. This description shall include preliminary engineering data, cost estimates for design and construction of the treatment works, and a schedule for completion of design and construction. The preliminary engineering data may include, to the extent appropriate, ~~such~~information such as a schematic flow diagram, unit processes, design data regarding detention times, flow rates, sizing of units, etc.
  - 2) A description of the selected complete waste treatment ~~systems~~system(s) of which the proposed treatment works is a part. The description shall cover all elements of the system, from the service area and collection sewers, through treatment, to the ultimate discharge of treated wastewaters and disposal of sludge.
  - 3) Infiltration/inflow documentation in accordance with General Condition Section 360.202, ~~(Sewer System Evaluation and Rehabilitation) hereof~~.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 4) A cost-effective analysis of alternatives for the treatment works and for the waste treatment ~~system~~system(s) of which the treatment works is a part. The selection of the ~~system~~system(s) and choice of the treatment works on which construction drawings and specifications are to be based shall reflect the cost-effectiveness analysis. This analysis shall include:
- A) The relationship of the size and capacity of alternative works to the needs to be served, including reserve capacity;
  - B) An evaluation of alternative flow and waste reduction measures;
  - C) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to construction of new facilities;
  - D) An evaluation of the capability of each alternative to meet applicable effluent limitations. The treatment works design must be based upon meeting the effluent limitations of the Environmental Protection Act ~~[415 ILCS 5](Ill. Rev. Stat. 1975, ch. 111½, pars. 1001 et seq.)~~ and regulations adopted ~~under the Actthereunder~~ or Sections 301 and 302 of the Federal Water Pollution Control Act (PL 92-500) and regulations adopted ~~under that Actthereunder~~, whichever are more stringent~~;~~;
  - E) An identification of~~;~~ and provision for~~;~~ applying the best practicable waste treatment technology (BPWTT)~~;~~ as defined by the United States Environmental Protection Agency, based upon an evaluation of technologies included under each of the following waste treatment management techniques:
    - i) Biological or physical-chemical treatment and discharge to receiving waters;
    - ii) Treatment and reuse; and
    - iii) Land application techniques~~;~~;
  - F) All Step 2, Step 3 or combination Step 2-3 projects for publicly-

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

owned treatment works construction from funds authorized for any fiscal year beginning after June 30, 1974, shall be based upon application of BPWTT, as a minimum. ~~When~~~~Where~~ application of BPWTT would not meet water quality standards, the facilities plan shall provide for attaining ~~thosesuch~~ standards. ~~ThisSuch~~ provision shall consider the alternative of treating combined sewer overflows.

- G) An evaluation of the alternative means by which ultimate disposal can be effected for treated wastewater and for sludge materials resulting from the treatment process, and a determination of the means chosen.
- H) An adequate assessment of the expected environmental impact of alternatives including sites consistent with the requirements of the National Environmental Policy Act of 1969 (42 ~~USCU.S.C.~~ 4321 et seq.). This assessment shall be revised as necessary to include information developed during subsequent project steps:-
- 5) An identification of effluent discharge limitations, or ~~whenwhere~~ a permit has been issued, a copy of the permit for the proposed treatment works as required by the National Pollutant Discharge Elimination System:-
- 6) Required comments or approvals of relevant State, interstate, regional, and local agencies:-
- 7) A brief summary of any public meeting or hearing held during the planning process including a summary of the views expressed:-
- 8) A brief statement demonstrating that the authorities ~~thatwhich~~ will be implementing the plan have the necessary legal, financial, institutional, and managerial resources available to insure the construction, operation, and maintenance of the proposed treatment works:-
- 9) As applicable, public participation in the facilities planning process shall be consistent with 40 CFR 105. One or more public hearings or meetings shall be held within the area to obtain public advice at the beginning of the planning process. All governmental agencies and other parties ~~thatwhich~~ are known to be concerned or may have an interest in the plan shall be

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

invited to participate. As a minimum, the following shall be required:

- A) A public hearing shall be held prior to the adoption of the facilities plan by the implementing governmental units. This public hearing for the facilities plan may satisfy the hearing requirement of ~~subsection (f)(4)(Gg) above~~. The Agency may require the grantee to hold additional public hearings, if needed, to more fully discuss the plan and alternatives or to afford concerned interests adequate opportunity to express their views; ~~:-~~
- B) The time and place of the public hearing shall be conspicuously and adequately announced, generally at least 30 days in advance. In addition, a description of the water quality problems and the principal alternatives considered in the planning process shall be displayed at a convenient local site sufficiently prior to the hearing (approximately 15 days); ~~and-~~
- C) Appropriate local and ~~Statestate~~ agencies; ~~Statestate~~ and regional clearinghouses, interested environmental groups and appropriate local public officials should receive written notice of public hearings; ~~and-~~
- 10) Grant assistance for Step 2 or 3 may be awarded prior to approval of a facilities plan for the entire geographic area to be served by the complete waste treatment system of which the proposed treatment works will be an integral part, if the Agency determines that applicable minimum requirements have been met (see ~~subsections~~) (f)(3) and (f)(4)(A), (D), and (G) ~~of this general condition~~); that the facilities planning relevant to the proposed Step 2 or 3 project has been substantially completed; and that the Step 2 or 3 project for which grant assistance is made will not be significantly affected by the completion of the facilities plan and will be a component part of the complete system: ~~provided that~~ ~~Provided, That~~ the applicant agrees to complete the facilities plan on a schedule ~~that~~ ~~which~~ shall be inserted as a special condition of this grant offer.
- g) Scope
- 1) The scope of each treatment works project defined within the facilities plan as being required for implementation of the plan, and for which

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

~~State~~ or federal assistance will be requested, shall define:

- A) Any necessary new treatment works construction; and
  - B) Any rehabilitation work determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation ~~that~~~~which~~ should be a part of the grantee's normal operation and maintenance responsibilities shall not be included within the scope of a Step 3 treatment works project.
- 2) Grant assistance for a Step 3 project segment consisting of rehabilitation work may be awarded concurrently with Step 2 work for the design of the new treatment works construction.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

**Section 360.306 Disputes**

- a) Only the grantee may appeal to the Agency under this provision with respect to its subagreements thereunder for its own name and benefit. Neither a contractor nor a subcontractor of a grantee may prosecute an appeal under the disputes provision of a grant in its own name or interest.
- b) Any dispute arising under this grant ~~that~~~~which~~ is not disposed of by agreement shall be decided by the Director or ~~the Director's~~~~his~~ duly authorized representative, who shall reduce ~~the~~~~his~~ decision to writing and mail or otherwise furnish a copy ~~thereof~~ to the applicant. The decision of the Director shall be final and conclusive.
- c) This ~~Section "disputes" clause~~ does not preclude consideration of questions of law in connection with decisions provided for in ~~subsection Section 360.306(b) above~~.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

**Section 360.805 Other Federal or State Grants**

If the grantee shall become eligible for a grant of federal funds or ~~Statestate~~ funds for this project from other than the Anti-Pollution Fund, the grantee shall repay to the State of Illinois, for deposit in the Anti-Pollution Fund, any funds received ~~exceeding 100%exceed 75 percent~~ of the approved allowable cost of the project, as defined by the Agency in accordance with the conditions of this grant. The grantee shall take any and all actions as may be directed by the Agency to perfect and preserve ~~such~~ eligibility ~~and to obtain such grant of~~ ~~for~~ federal ~~funds~~ or ~~Statestate~~ funds from other than the Anti-Pollution Fund or to reimburse to the Anti-Pollution Fund ~~such~~ amounts ~~that wouldas might~~ have been returned to it under this condition, but for failure of the grantee to take timely action as directed.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedure for Issuing Grants From the Anti-Pollution Bond Act and the Build Illinois Act for Sewage Treatment Works
- 2) Code Citation: 35 Ill. Adm. Code 363
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
363.101	Amendment
363.102	Amendment
363.201	Amendment
363.202	Amendment
363.203	Amendment
363.204	Amendment
363.205	Amendment
363.206	Amendment
363.207	Amendment
363.301	Amendment
363.501	Amendment
363.601	Repealed
363.602	Repealed
363.603	Repealed
363.702	Amendment
363.703	Repealed
363.704	Repealed
363.705	Amendment
363.801	Amendment
363.803	Repealed
363.804	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405/4], Section 1-3 of the Build Illinois Act [30 ILCS 750/1-3] and Section 4 of the Environmental Protection Act [415 ILCS 5/4]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments provide that the combination of assistance provided under the Bond Act, Title II, and any other state or federal assistance shall not, instead of 75 percent, exceed 100 percent of the eligible project costs. The proposed amendments also provide that Bond Act grants, or supplemental Bond Act grants, may be available, instead of up to 75 percent, for up to 100 percent of the eligible project costs. Additionally, and instead of 70 percent, eligible projects not receiving a Title II or a Build Illinois Bond Fund grant may be issued a Bond

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

Act grant provided that the State share does not exceed 100 percent of the eligible project costs. Next, the proposed amendments raise the maximum level of financial assistance, from all sources including grants and loans, from 85 percent to 100 percent, or less, the eligible project costs. Finally, the proposed amendments repeal outdated sections, correct typographical errors, and update statutory references.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on the proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield IL 62794-9276

217/782-5544  
Rex.Gradeless@Illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any unit of local government that qualifies for a grant issued from the Anti-Pollution Bond Act for the planning, financing, and construction of sewage treatment works may be affected.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: 39 Ill. Reg. 10131; July 17, 2015

The full text of the Proposed Amendments begins on the next page:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 363

PROCEDURE FOR ISSUING GRANTS FROM THE ANTI-POLLUTION  
BOND ACT AND THE BUILD ILLINOIS ACT FOR SEWAGE TREATMENT WORKS

SUBPART A: INTRODUCTION

Section	
363.101	Purpose
363.102	Definitions

SUBPART B: GENERAL CRITERIA

Section	
363.201	Relationship to <a href="#">Other Grant Programs</a> <del>Title II Grants</del>
363.202	Reimbursement
363.203	Allocation of Grant Funds
363.204	Supplemental Grants
363.205	Required Content and Filing of Applications for Bond Act Grants
363.206	Limitations Upon Grants for Collection Systems
363.207	State Owned Facilities

SUBPART C: STANDARD PRIORITY PROJECT GRANTS

Section	
363.301	Project Priority Requirement
363.302	Consolidation of Priorities

SUBPART D: HEALTH RISK GRANTS

Section	
363.401	Determination of Health Risk
363.402	Priorities for Issuance

SUBPART E: REGIONALIZATION PROJECT GRANTS

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

Section	
363.501	Availability of Funding
363.502	Priorities for Issuance

## SUBPART F: BACKLOG PROJECT GRANTS

Section	
363.601	Availability of Funding ( <a href="#">Repealed</a> )
363.602	State/Federal Piggyback Grants ( <a href="#">Repealed</a> )
363.603	State Reimbursement Grants ( <a href="#">Repealed</a> )

## SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

Section	
363.701	Availability of Funding
363.702	Build Illinois Bond Fund Grants
363.703	Supplemental State/Federal Piggyback Grants ( <a href="#">Repealed</a> )
363.704	Supplemental State Reimbursement Grants ( <a href="#">Repealed</a> )
363.705	Supplemental Build Illinois Bond Fund Grants

## SUBPART H: UNSEWERED COMMUNITIES GRANTS

Section	
363.801	Applicability
363.802	Eligibility
363.803	Grant Percentage and Design Grants ( <a href="#">Repealed</a> )
363.804	Limitations

AUTHORITY: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405/4], Section 1-3 of the Build Illinois Act [30 ILCS 750/1-3] and Section 4 of the Environmental Protection Act [415 ILCS 5/4].

SOURCE: Adopted and codified at 8 Ill. Reg. 15914, effective August 17, 1984; amended at 9 Ill. Reg. 3951, effective March 15, 1985; amended at 10 Ill. Reg. 216, effective December 20, 1985; amended at 27 Ill. Reg. 13421, effective July 25, 2003; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

**Section 363.101 Purpose**

- a) The Anti-Pollution Bond Act, [\[30 ILCS 405\]](#)~~(Ill. Rev. Stat. 1983, ch. 127, pars. 451-464)~~ provides that the State of Illinois may issue grants to units of local government for the planning, financing, and construction of sewage treatment works. ~~These~~~~Such~~ grants are made under the direction of the [Illinois Environmental Protection Agency](#). ~~("Agency")~~
- b) ~~This Part sets~~~~These rules set~~ forth the procedures used by the Agency in the issuance of grants to units of local government for the planning, financing, and construction of sewage treatment works.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.102 Definitions**

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act and the federal Clean Water Act (33 ~~USCU.S.C.~~ 1251 ~~et seq.~~) and regulations promulgated under those Acts ~~40 CFR 30, 33, and 35 (1983). No incorporation by reference in this Part, other than the Illinois Revised Statutes or the United States Code includes any later amendment or addition.~~
- b) For purposes of ~~this Part~~~~these rules~~ the following definitions apply:
- ~~"Agency" means the Illinois Environmental Protection Agency.~~
- ~~"Bond Act" means the Anti-Pollution Bond Act, [30 ILCS 405](Ill. Rev. Stat. 1983, ch. 127, pars. 451-464).~~
- ~~"Build Illinois Bond Act" means the Build Illinois Act [30 ILCS 750].~~
- ~~"Title II" means Title II of the federal Clean Water Act, (33 ~~USCU.S.C.~~ 1281 ~~et seq.~~).~~
- ~~"State Owned Facilities" means mental health or developmental centers or institutions for which the Department of Mental Health and Development Disabilities exercises executive and administrative supervision under [20 ILCS](#)~~

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

~~1705/4Ill. Rev. Stat. 1983, ch. 91½, par. 100-4~~, and correctional institutions or facilities for which the Department of Corrections maintains and administers control under the State Penitentiary System in accordance with ~~730 ILCS 5/3-2-2Ill. Rev. Stat. 1983, ch. 38, par. 1003-2-2~~.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: GENERAL CRITERIA

**Section 363.201 Relationship to Other Grant Programs~~Title II Grants~~**

- a) Subject to Section 363.207, no recipient shall receive a grant or any other assistance~~no grant shall be issued~~ under the Bond Act for the planning, financing or construction of sewage treatment works if a grant has been offered under Title II ~~that~~which would provide 100%~~75% or more~~ of the eligible project costs.
- b) The combination of assistance provided under the Bond Act, Title II and any other State or federal assistance shall not exceed 100% of the eligible project costs.~~Subject to Section 363.207, no recipient shall receive any assistance under the Bond Act if the combination of assistance under the Bond Act and Title II equals or exceeds 75% of the eligible project costs; except as provided in Section 363.602 for Backlog Project Grants. The previous sentence shall not apply if an existing Bond Act grant offer, issued prior to January 1, 1973, specifies that the combination of assistance may not exceed 80% of the eligible project cost; in such case the recipient may not receive any assistance under the Bond Act if the combination of assistance under the Bond Act and Title II equals or exceeds 80% of the eligible project cost.~~
- c) Assistance under this Part may be reduced if required by the Clean Water Act.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.202 Reimbursement**

If the recipient of a Bond Act grant is at any time offered any State, federal or local~~Title II~~ grant, or any other funding source, to assist in the payment of expenses for which a Bond Act grant has been issued, the recipient shall reimburse the State of Illinois for any Bond Act grant funds used to pay expenses paid or offered to be paid under another grant or funding source~~the Title II grant~~.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.203 Allocation of Grant Funds**

- a) Grant funds available under the Bond Act ~~and Title II~~ will be subject to an equal division of total grant funds available to the State between the service area of the Metropolitan ~~Water Reclamation Sanitary~~ District of Greater Chicago and the area which is comprised of the geographical balance of the ~~Statestate~~, to the extent that projects in either area in any grant year have qualified to receive Bond Act ~~or Title II~~ grant funds and the Agency has determined that the projects are ready to proceed in accordance with the criteria for grant award.
- b) If insufficient projects in either area are ready to proceed in any grant year to permit an equal division of the total grant funds available to the State, grants will be made to those projects in either area ~~thatwhich~~ are ready to proceed to the extent that funds are available.
- c) Any imbalance in the division of the total grant funds available to the State shall be carried forward from year to year and shall be applied as projects are ready to proceed to achieve an accumulatively equal distribution, if possible within the constraints of this Part, to both areas of the total of the grant funds available to the State.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.204 Supplemental Grants**

A unit of local government which has received a ~~Statestate~~ grant offer shall be eligible for a supplemental ~~Statestate~~ grant not to exceed ~~100%the appropriate percentage~~ of eligible costs of the project. The issuance of a supplemental grant will be based on the availability of Bond Act funds.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.205 Required Content and Filing of Applications for Bond Act Grants**

- a) All projects receiving grants pursuant to this Part must comply with the requirements of 35 Ill. Adm. Code 360.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- b) Bond Act grants will be made only for the funding of eligible project costs ~~that~~**which** comply with the requirements of 40 CFR 35 Subpart I Appendix A and B (1984), as published on February 17, 1984, in the Federal Register (as amended at 55 Fed. Reg. 27098, June 29, 1990). No later editions are included in the incorporation.
- ~~b) Any of the requirements of 40 CFR 35 Subpart I (1984), except facilities planning, sewer system evaluation, user charges, sewer use ordinance, and initiation of construction may be waived in writing by the Agency, in whole or in part, if the purpose of the requirement has been accomplished or if the requirement waived is not considered by the Agency to be necessary to assure that the project attains pollution control goals in a cost-effective manner.~~
- ~~e) Bond Act grants will not be offered for any project unless a complete application for the project is filed prior to the filing deadline and unless the Agency has entered the project on the priority list for the fiscal year in which the grant is requested as determined by Agency Rules entitled "Procedures and Requirements for Determining Construction Grant Priorities for Municipal Sewage Treatment Works Needs." (35 Ill. Adm. Code 364).~~
- ~~d) Any of the requirements of Subpart H of this Part, except Sections 363.802(e), 363.803(a), and 363.803(b)(2) and any provisions of Part 360 or Part 365 (as applicable) that may not be waived pursuant to those Parts, may be waived in writing by the Agency, in whole or in part, if the purpose of the requirement has been accomplished or if the requirement is not considered by the Agency to be necessary to assure that the project attains the goals of the Unsewered Communities Grant Program.~~

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.206 Limitations Upon Grants for Collection Systems**

The facilities **that** convey wastewater from individual structures or from private property to the public lateral sewer are not eligible for grant funding, with the exception of pumping units and pressurized lines for individual structures or groups of structures when **those** units are cost effective and owned and maintained by the grant recipient.

- ~~a) Bond Act grants that may be used for planning, financing and construction of~~

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

~~sewage collection systems will be limited as follows:~~

- ~~1) The area within which the system will be constructed must have been within the incorporated boundaries of the grant recipient on October 18, 1972;~~
  - ~~2) Design capacity for the sewer system will not exceed one hundred fifty percent (150%) of the wastewater flows originating from the community as it existed on October 18, 1972. This limitation will be applied sewer line by sewer line; and~~
  - ~~3) The facilities which convey wastewater from individual structures or from private property to the public lateral sewer are not eligible for grant funding, with the exception of pumping units and pressurized lines for individual structures or groups of structures when such units are cost effective and then only if such units are owned and maintained by the grant recipient.~~
- b) ~~Eligible for grant funding are the common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities.~~

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.207 State Owned Facilities**

- a) Bond Act grants for that portion of the local share of eligible project costs attributable to ~~State~~ owned facilities shall not be awarded unless the following conditions are met:
  - 1) The grant is in conjunction with and in addition to a Title II grant or a Bond Act grant under Subparts C, D or E awarded to an eligible unit of local government;
  - 2) The proposed treatment works project must provide service to residential, industrial and commercial users within the boundaries of the unit of local government in addition to providing service to the ~~State~~ owned

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

facility;

- 3) The proposed sewage treatment works must be owned and operated by a unit of local government and must be located on property ~~that~~<sup>which</sup> is also owned by the unit of local government~~;~~.
  - 4) Grants to the applicant for a share of the local cost attributable to the ~~State~~<sup>state</sup> owned facility must be awarded to the unit of local government at the time that the Step 3 grant is awarded and prior to initiation of construction of the sewage treatment works~~;~~.
  - 5) The grant for the share of the local cost attributable to the ~~State~~<sup>state</sup> owned facility shall not be awarded unless the Agency has approved a cost effective analysis of the treatment works configuration in facility planning~~; and~~.
  - 6) The grant for the share of the local cost attributable to the ~~State~~<sup>state</sup> owned facility shall not exceed 100% of the ~~State~~<sup>state</sup> share of eligible ~~project~~<sup>projects</sup> costs, as determined ~~by~~<sup>pursuant to</sup> a signed written service agreement between the applicant and the ~~State~~<sup>state</sup> agency ~~that~~<sup>which</sup> operates the ~~State~~<sup>state</sup> owned facilities, which ~~are~~<sup>is</sup> to be served by the treatment works.
- b) No grant under this section may be made if the state owned facility is eligible and has been approved by the Capital Development Board for securing its share of the local funding under the Capital Development Bond Act [of 1972 \[30 ILCS 420\]](#)~~(Ill. Rev. Stat. 1983, ch. 127, pars. 751 et seq.)~~ or any other bonding program of the State of Illinois.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: STANDARD PRIORITY PROJECT GRANTS

**Section 363.301 Project Priority Requirement**

- a) Bond Act grants to units of local government under this Section shall be made in accordance with the grant applicant's priority as established under ~~Agency rules entitled "Procedures and Requirements for Determining Construction Grant Priorities for Municipal Sewage Treatment Works Needs."~~ (35 Ill. Adm. Code

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

364).

- b) Except as set forth in ~~Subparts~~Subtitles D and E, the Director of the Agency shall not approve a project for funding under this Subpart unless the priority of the project is within the range of project priorities for which grant funding from combined ~~State~~state and federal resources is available.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: REGIONALIZATION PROJECT GRANTS

**Section 363.501 Availability of Funding**

- a) Notwithstanding Subpart C, the Agency may provide grant assistance under this Subpart, to units of local government ~~that~~which are entirely or partially unsewered for the planning, financing and construction of interceptor or collector sewers if the following requirements are met:
- 1) The proposed sewer system is included in an area of regionalization in which ~~State~~state or federal funds have been or will be obligated to construct a regional treatment facility; and
  - 2) The regional treatment facility has been planned to accommodate and designed with capacity to treat sewage to be conveyed by the proposed sewer system.
- b) Bond Act grants may be available to fund up to ~~100%~~75% of the eligible project costs for planning, design and construction of interceptor or collector sewers.
- c) The following projects and project costs are not eligible for funding under this Subpart:
- 1) Projects of which federal or ~~State~~state standard priority construction grant funds are expected to be available;
  - 2) Projects costs for systems designed to intercept, store, or treat wet weather overflows; and
  - 3) Projects ~~that~~which consist of sewer systems for partially sewerred

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

communities ~~that~~<sup>which</sup> are tributary to single-municipal treatment facilities.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: BACKLOG PROJECT GRANTS

**Section 363.601 Availability of Funding (Repealed)**

~~Eligible backlog projects include those projects listed in P.A. 83-1231 (effective July 20, 1984).~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.602 State/Federal Piggyback Grants (Repealed)**

~~For those backlog projects receiving a Title II grant after September 30, 1984, a Bond Act grant may also be issued under this Section provided that:~~

- ~~a) the total percentage of the grant funding does not exceed 70 percent.~~
- ~~b) the State share of design will be an allowance in accordance with the criteria set forth in 35 Ill. Adm. Code 363.205.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.603 State Reimbursement Grants (Repealed)**

~~For those backlog projects not receiving a Title II grant, a Bond Act grant may be issued provided the State share does not exceed 70 percent. The State grant shall be issued in increments based on cash flow limitations relating to the sales of bonds.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

**Section 363.702 Build Illinois Bond Fund Grants**

For those projects not receiving a Title II grant, a Build Illinois Bond Fund grant may be issued provided:

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- a) the State share does not exceed ~~100%~~70 percent,
- b) the State share of either planning or design, or both, will be an allowance in accordance with the criteria set forth in ~~Section 35 Ill. Adm. Code~~ 363.205.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.703 Supplemental State/Federal Piggyback Grants (Repealed)**

~~For those projects which receive a State/Federal piggyback grant after September 30, 1984, as set forth in Section 363.602, a supplemental Build Illinois Bond Fund grant may be issued provided that the total percentage of State/Federal grant funding does not exceed 70 percent.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.704 Supplemental State Reimbursement Grants (Repealed)**

~~For those backlog projects not receiving a Title II grant, a supplemental Build Illinois Bond Fund grant may be issued provided that the State share does not exceed 70 percent. The State grant shall be issued in increments based on cash flow limitations relating to the sale of bonds.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.705 Supplemental Build Illinois Bond Fund Grants**

To the extent that Build Illinois Bond Funds are available, a supplemental Build Illinois Bond Fund grant may be issued under this Section for those projects ~~that which~~ received a Bond Act grant on or before September 30, 1984, and ~~that which~~ did not receive full ~~100%~~75 percent funding of eligible project costs provided that:

- a) the Agency has received construction bids on the project;<sup>5</sup> and
- b) the State share does not exceed ~~100%~~75 percent of the total eligible project cost.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: UNSEWERED COMMUNITIES GRANTS

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

**Section 363.801 Applicability**

- a) All projects receiving unsewered communities grants pursuant to this Subpart must comply with the requirements of 35 Ill. Adm. Code 360 (~~General Conditions of State of Illinois Grants under the Anti-Pollution Bond Act of 1970~~).
- b) For projects receiving unsewered communities grants pursuant to this Subpart that also receive a Water Pollution Control Loan Program loan, compliance with 35 Ill. Adm. Code 365 (~~Procedures for Issuing Loans from the Water Pollution Control Loan Program~~) will satisfy the requirements of 35 Ill. Adm. Code Part 360.
- c) Except Sections 363.802(c), any of the requirements of Subpart H of this Part may be waived if the purpose of the requirement has been accomplished or if the requirement is not considered by the Agency to be necessary to assure that the project attains the goals of the Unsewered Communities Grant Program.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.803 Grant Percentage and Design Grants (Repealed)**a) ~~Grant Percentage~~

~~Communities receiving grants under the unsewered communities grant program will be eligible to receive grants of between 10 and 70% of eligible project costs depending on the relationship between the community's median household income (MHI) to the statewide MHI based on the latest census as incorporated by reference at 35 Ill. Adm. Code 366.103. The following table lists the percentage of eligible project costs that may be provided to an applicant based on the applicant's MHI percentage above or below the statewide MHI:~~

<del>State MHI</del>	<del>Grant Percentage</del>
<del>80% and below</del>	<del>70%</del>
<del>81%</del>	<del>69%</del>
<del>82%</del>	<del>68%</del>
<del>83%</del>	<del>67%</del>
<del>84%</del>	<del>66%</del>
<del>85%</del>	<del>65%</del>

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

86%	64%
87%	63%
88%	62%
89%	61%
90%	60%
91%	59%
92%	58%
93%	57%
94%	56%
95%	55%
96%	54%
97%	53%
98%	52%
99%	51%
100%	50%
101%	49%
102%	48%
103%	47%
104%	46%
105%	45%
106%	44%
107%	43%
108%	42%
109%	41%
110%	40%
111%	39%
112%	38%
113%	37%
114%	36%
115%	35%
116%	34%
117%	33%
118%	32%
119%	31%
120%	30%
121%	29%
122%	28%
123%	27%
124%	26%

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

125%	25%
126%	24%
127%	23%
128%	22%
129%	21%
130%	20%
131%	19%
132%	18%
133%	17%
134%	16%
135%	15%
136%	14%
137%	13%
138%	12%
139%	11%
140% or above	10%

## b) Design Grants

- 1) ~~Design grants may be made upon submission of an approved facilities plan pursuant to 35 Ill. Adm. Code 365 and an architectural/engineering agreement for design services.~~
- 2) ~~An applicant will be eligible for a design grant of between 10 and 70% of the architectural/engineering agreement for design services depending on the relationship between the community's MHI and the state-wide MHI as provided in subsection (a) of this Section.~~
- 3) ~~An applicant may elect to receive a design grant prior to the start of design or as a reimbursement at the start of construction.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 363.804 Limitations**

~~a) Grant participation for sewers shall be limited to sewers necessary to cost-effectively serve buildings in existence on July 1, 2001. b) The maximum amount of grant assistance is \$5 million for any one applicant on a cumulative basis. c) The maximum percentage of~~

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~grant assistance from all available sources is 85% of eligible project costs.~~ The maximum financial assistance from all sources including grants and loans cannot exceed 100% of eligible project costs.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Conditions of Grants for the Financing and Construction of Public Water Supply Facilities
- 2) Code Citation: 35 Ill. Adm. Code 661
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
661.101	Amendment
661.102	Amendment
661.201	Amendment
661.203	Amendment
661.302	Amendment
661.303	Amendment
661.305	Amendment
661.306	Amendment
661.307	Amendment
661.407	Amendment
661.502	Amendment
661.601	Amendment
661.705	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4(k) and 4(x)(1) of the Illinois Environmental Protection Act [415 ILCS 5/4(k) and 415 ILCS 5/4(x)(1).]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments contain updates consistent with 415 ILCS 5/4(k) and 415 ILCS 5/4(x)(1). As required by the Act, the proposed amendments provide that the State's share of grant funding is subject to local matching requirements of the Act. Additionally, proposed amendments reflect provisions of the Illinois Grant Funds Recovery Act (30 ILCS 705) concerning grant funds within the State of Illinois.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on the proposed rules may submit them in writing by no later than 45 days after publication of this Notice to:
- Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield IL 62794-9276
- 217/782-5544  
Rex.Gradeless@Illinois.Gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments have no effect on small businesses, small municipalities, and not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments do not require any new reporting, bookkeeping, or other procedures required for compliance.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: 40 Ill. Reg. 9276; July 8, 2016.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 661

GENERAL CONDITIONS OF GRANTS FOR THE FINANCING AND  
CONSTRUCTION OF PUBLIC WATER SUPPLY FACILITIES

SUBPART A: INTRODUCTION

Section	Purpose
661.101	Purpose
661.102	Definitions
661.103	Severability

SUBPART B: LIABILITIES AND REMEDIES FOR FAILURE  
TO COMPLY WITH GRANT CONDITIONS

Section	Purpose
661.201	Noncompliance with Grant Conditions
661.202	Stop-Work Order
661.203	Termination
661.204	Waiver of Conditions
661.205	Covenant Against Contingent Fees

SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

Section	Purpose
661.301	General Conditions for all Subagreements
661.302	Construction Contracts of Grantee
661.303	Contracts for Personal and Professional Services - Consulting Engineering Agreements
661.304	Equal Opportunity
661.305	Compliance with Procurement Requirements
661.306	Disputes
661.307	Indemnity

SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION,  
AMENDMENT, COMPLETION AND OPERATION OF PROJECT

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

Section	
661.401	Project Initiation
661.402	Project Changes
661.403	Supervision
661.404	Project Sign
661.405	Final Inspection
661.406	Operation and Maintenance
661.407	User Charges
661.408	Flood Plain Insurance

SUBPART E: REQUIREMENTS APPLICABLE TO  
ACCESS, AUDITING, AND RECORDS

Section	
661.501	Access
661.502	Audit and Records

## SUBPART F: INCORPORATED REQUIREMENTS

Section	
661.601	Statutory Conditions
661.602	Incorporation of Documents

## SUBPART G: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

Section	
661.701	Determination of Allowable Costs
661.702	Amount of Grant-Percentage of Approved Allowable Costs
661.703	Use of Grant and Payment of Non-Allowable Costs
661.704	Grant Payment Schedule
661.705	Maximum Grant Share

661.APPENDIX A	General Conditions of Construction Contract Document
661.APPENDIX B	Required Provisions (Engineering Agreements)
661.APPENDIX C	Procedures for Determination of Design Allowance

AUTHORITY: Implementing and authorized by Sections 4(k), 4(x)(1), and 4(x)(2) of the Illinois Environmental Protection Act [415 ILCS 5/4(k), 415 ILCS 5/4(x)(1), and 415 ILCS

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

5/4(x)(2)].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 19709, effective November 20, 1987, for a maximum of 150 days; adopted at 12 Ill. Reg. 8926, effective May 17, 1988; amended at 14 Ill. Reg. 2055, effective January 18, 1990; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

**Section 661.101 Purposes**

- a) ~~Sections 4(k), 4(x)(1), and 4(x)(2)~~Section 4(v) of the Environmental Protection Act ~~[415 ILCS 5/4(k), 415 ILCS 5/4(x)(1), 415 ILCS 5/4(x)(2)](Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1004(v), as added by P.A. 85-288, effective September 8, 1987)~~ authorizes the Illinois Environmental Protection Agency ("Agency") *to distribute grants, subject to appropriation by the general assembly, to units of local government for financing and construction of public water supply facilities. With respect to all monies appropriated from the ~~Build~~ Illinois ~~Bond Fund~~ or the ~~Build~~ Illinois ~~Purposes Fund~~ for public water supply grants, such grants shall be made in accordance with rules promulgated by the Agency.*
- b) The rules set forth in this Part constitute conditions ~~that~~*which* apply to any grant to units of local government for financing and construction of public water supply facilities.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.102 Definitions**

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act.
- b) For purposes of this Part and 35 Ill. Adm. Code 660, the following definitions apply:

"Act" means the Environmental Protection Act ~~[(415 ILCS 5)](Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1001 et seq., as amended).~~

"Addenda" means written or graphic instruments issued prior to the

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

execution of the agreement ~~that~~<sup>which</sup> modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications, or corrections.

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means grant applicant.

"Bid" means the offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.

"Bidder" means any person, firm or corporation submitting a bid for the work.

"Change order" means a written order to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

"Construction" means any one or more of the following: surveys, designs, plans, working drawings, specifications, erection, building, acquisition (of equipment, supplies, or components), alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"Contract documents" means the contract, including advertisement for bid, information for bidders, bid, bid bond, agreements, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

"Contract price" means the total monies payable to the contractor under the terms and conditions of the contract documents.

"Contract time" means the number of calendar days stated in the contract documents for the completion of all the work including punch list items.

"Contractor" means the person, firm or corporation with whom the owner has executed a subagreement.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

"Director" means the Director of the Illinois Environmental Protection Agency.

"Drawings" means the part of the contract documents ~~that~~which show the characteristics and scope of the work to be performed and ~~that~~which have been prepared by or approved by the engineer based upon the engineer's professional ~~judgment~~judgement as defined in this subsection.

"Engineer" means the person, firm or corporation named as such in the contract documents.

"Field order" means a written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the engineer to the contractor during construction.

"Force account work" means work performed or a purchase made by a grantee in lieu of such work being performed or purchase being made by a person other than the grantee.

"Generally accepted accounting principles" or "GAAP" means procedures adopted by the Financial Accounting Standards Board (High Ridge Park, Stamford, Connecticut; June 1, 1987). (This incorporation contains no further amendments or editions.)

"Generally accepted auditing standards" means procedures adopted by the Auditing Standards Board (Codification of Statements on Auditing Standards; 1211 Avenue of the Americas, New York City, New York; January 1986) (This incorporation contains no further amendments or editions).

"Grant" means a grant under Section ~~4(x)(1)~~4(v) of the Act.

"Grant agreement" means the written agreement between the Agency and a grant recipient (applicant) in which the terms and conditions governing the grant are stated and agreed to by both parties.

"Grant applicant" means the unit of local government which has applied for a grant under Section ~~4(x)(1)~~4(v) of the Act.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

"Grantee" or "Owner" means the unit of local government which has received a grant under Section [4\(x\)\(1\)4\(v\)](#) of the Act.

"Grant procedures" means the procedures for issuing grants under Section [4\(x\)\(1\)4\(v\)](#) of the Act.

"Initiation of operation" means the date specified by the grant recipient on which use of the project begins for the purposes that it was planned, designed, and built.

"Notice of award" means the written notice of the acceptance of the bid from the owner to the successful bidder.

"Notice to proceed" means written communications issued by the owner to the contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

"Professional ~~judgment~~[judgement](#)" means the use of those engineering principles and practices used by engineers when fulfilling their requirements and duties consistent with the specific requirements of this Part and as certified by a Professional Engineer licensed under the Illinois Professional Engineering Act ([\[225 ILCS 325\]Ill. Rev. Stat. 1985, ch. 111, par. 5101 et seq.](#)).

"Project" means the undertaking to be performed as provided in the grant agreement.

"Resident project representative" means the authorized representative of the owner who is assigned to the project site or any part [of the project site](#)~~thereof~~.

"Responsible bidder" means a bidder who meets all of the criteria for responsibility established by the grantee or contractor in the invitation for bid or proposal and, in addition, meets all of the criteria set forth in Section 661.301(j)(1).

"Responsive bidder" means a bidder who complies with the invitation for bid or proposal in all material respects as to the method, substance, and timeliness of submission.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

"Shop drawings" means all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the contractor, subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.

"Specifications" means a part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

"Subagreement" means a written agreement between the grant recipient and another party and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts for personal and professional services and purchase orders.

"Subcontractor" means an individual, firm, or corporation having a direct contract with the contractor or with any other subcontractor for the performance of a part of the work.

"Substantial completion" means the date as certified by the engineer when the construction of the project or a specified part of the project ~~thereof~~ is sufficiently completed, in accordance with the contract documents, so that the project or specified part can be utilized for the purpose for which it is intended.

"Supplier" means any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.

"Unit of local government" means a county, municipality, township, municipal or county water or utility authority, municipal public water district, improvement authority or, municipal subdivision whose primary purpose is to construct, operate and maintain public water supply facilities.

"Work" means all labor necessary to produce the construction required by the contract documents, and all materials and equipment incorporated or to be incorporated in the project.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

"Written notice" means any notice to any party of the agreement relative to any part of this agreement in writing. Written notice shall be considered delivered and the service ~~of that notice~~ ~~hereof~~ completed, when posted by certified or registered mail to the said party at ~~his or her~~ ~~his~~ last given address, or delivered in person to said party or ~~his or her~~ ~~his~~ authorized representative on the work.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: LIABILITIES AND REMEDIES FOR FAILURE  
TO COMPLY WITH GRANT CONDITIONS**Section 661.201 Noncompliance with Grant Conditions**

- a) In the event of noncompliance with any condition imposed pursuant to a grant, the Director shall take one or more of the following actions:
- 1) Commence legal action in a court of competent jurisdiction (e.g., to obtain an injunction or to recover in fraud);
  - 2) Annul the grant and recover all grant funds pursuant to the Illinois Grant Funds Recovery Act (~~[30 ILCS 705]~~ ~~Ill. Rev. Stat. 1985, ch. 127, par. 2301 et seq.~~);
  - 3) Terminate the grant pursuant to Section 661.203;
  - 4) Suspend all or part of the project work pursuant to Section 661.202; or
  - 5) Take ~~such~~ other action as provided by law, including, but not limited to, reducing the amount of the grant by the amount of misused funds or disallow costs in accordance with Section 661.701.
- b) No action shall be taken under this general condition without prior consultation with the applicant.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.203 Termination**

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## a) Grant Termination by Agency

The Agency, by written notice and after consultation with the grantee, may terminate the grant. Cause for termination shall include, but not be limited to: default (inability or unwillingness to perform under this Part) by the grantee, failure by the grantee to comply with the terms and conditions of the grant, lack of adequate funding, or advancements in the state of the art. Upon ~~such~~ termination, the grantee shall refund to the State of Illinois any unexpended grant funds, except ~~that such~~ portion ~~thereof as may be~~ required by the grantee to make payment for materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination and further provided that ~~those such~~ costs are otherwise allowable under Section 661.701 and under the conditions of this grant.

## b) Project Termination by Grantee

The grantee may not terminate a project for which the grant has been awarded, except for good cause. Good cause for termination shall include, but not be limited to, realignment of programs, change in program requirements or priorities, lack of adequate funding, or advancement in the state of the art. If the Agency finds that there is good cause for the termination of all or any portion of a project for which the grant has been awarded, it shall enter into a termination agreement or unilaterally terminate the grant, effective with the date of termination of the project by the grantee. Any termination agreement shall include special conditions for the termination of the grant. If the Agency finds that the grantee has terminated the project without good cause, then the grant shall be annulled and all grant funds previously paid or owing to the grantee shall be returned to the State of Illinois ~~as final settlement~~.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

**Section 661.302 Construction Contracts of Grantee**

- a) This Section shall apply to construction contracts (subagreements) awarded by the grantee.
- b) The project work shall be performed under one or more contracts awarded by the

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

grantee to private firms, except for force account work authorized by the Agency under Section 661.301(i).

- c) Each contract shall be either a fixed-price (lump-sum) contract or fixed-rate (unit price) contract, or a combination of the two, unless the Agency gives advance written approval (based upon the Agency's professional judgment as defined in Section 661.102(b)) for the grantee to use some other acceptable type of contract (such as, but not limited to, per diem contracts as discussed under Section 661.303(b)(5)). The cost-plus-a-percentage-of-cost type of contract shall not be used.
- d) For each construction contract to be awarded by the grantee, the grantee shall require a:
- 1) Bid bond for 5% of the bid price;
  - 2) Performance bond for 100% of the contract price; and
  - 3) Payment bond for 100% of the contract price.
- e) The grantee must obtain written Agency approval prior to formal advertising. The Agency shall provide ~~such~~ approval if the grantee has complied with this Part and the conditions of the grant. Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 661.301(1). Formal advertising shall be in accordance with the following:
- 1) Adequate public notice  
The applicant will cause adequate notice to be given of the solicitation by publication in newspapers or journals of general circulation statewide, inviting bids on the project work, and stating the method by which bidding documents may be obtained and examined. ~~When~~~~Where~~ the estimated prospective cost of construction is ten million dollars or more, ~~the~~~~such~~ notice must be published in trade journals of nationwide distribution. The applicant must in addition solicit bids directly from bidders, if it maintains a bidders list.
  - 2) Adequate time for preparing bids  
Not less than 30 days must be allowed between the date when public notice pursuant to subsection (e)(1) is first published and the date by

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

which bids must be submitted. Bidding documents (including specifications and drawings) shall be available to prospective bidders from the date when [thesueh](#) notice is first published.

- 3) Adequate bidding documents  
Bidding documents (invitations for bid) shall be prepared by the grantee and shall be furnished upon request on a first-come, first-served basis. A complete set of bidding documents shall be maintained by the grantee and shall be available for inspection and copying by any party. [TheSueh](#) bidding documents shall include:
- A) A complete statement of the work to be performed, including necessary drawings and specifications, and a completion schedule. Drawings and specifications may be made available for inspection instead of being furnished;
  - B) The terms and conditions of the contract to be awarded;
  - C) A clear explanation of the method of bidding and the method of evaluation of bid prices, and the basis and method for award of the contract;
  - D) A copy of all the general conditions, special conditions, assurances, agreements, and terms of the grant;
  - E) Responsibility requirements or criteria [thatwhich](#) will be employed in evaluating bidders; provided, that an experience requirement may not be utilized unless justified under Section 661.301(h)(4);
  - F) The following statement:

"Any contract awarded under this Invitation for Bids is expected to be funded in part by a grant from the State of Illinois. Neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this Invitation for Bids or any resulting contract.";
  - G) A copy of subsection (e)(3)(H) shall be in the proposal form to be used by bidders and shall constitute a representation and

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

certification to be considered part of the bid. The grantee shall not award any contract to a bidder who has deleted or modified the language contained in subsection (e)(3)(H), as set forth in the proposal form;

- H) By submission of the bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his or her own organization, that in connection with the bid:
- i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to ~~thesueh~~ prices with any other bidder or with any competitor;
  - ii) Unless otherwise required by law, the prices ~~thatwhich~~ have been quoted in the bid have not knowingly been disclosed by the bidder, prior to opening, directly or indirectly to any other bidder or to any competitor; and
  - iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition; and
- I) Each person signing the bid shall certify that:
- i) He or she is the person in the bidder's organization responsible within that organization for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (e)(3)(H); or
  - ii) He or she is not the person in the bidder's organization responsible within that organization for the decision as to the prices being bid, but that he or she has been authorized to act as agent for the persons responsible for ~~thesueh~~ decision in certifying that ~~theysueh persons~~ have not participated, and will not participate, in any action contrary to subsection (e)(3)(H), and as their agent shall so certify;

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

and shall also certify that he [or she](#) has not participated, and will not participate, in any action contrary to subsection (e)(3)(H).

- 4) **Sealed Bids**  
The grantee shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening.
- 5) **Amendments to bidding documents**  
If the grantee desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the amendments shall be communicated in writing to all firms who have obtained bidding documents in time to be considered prior to the bid opening time. The period for submission of bids shall be extended when necessary to assure fair and open competition.
- 6) **Bid modifications**  
A firm [thatwhich](#) has submitted a bid shall be allowed to modify or withdraw its bid prior to the time of bid opening.
- 7) **Public opening of bids**  
The grantee shall provide for a public opening of bids at the place, date and time announced in the bidding documents.
- 8) **Award to the low responsive, responsible bidder.**
  - A) After bids are opened, they shall be evaluated by the grantee in accordance with the methods and criteria set forth in the bidding documents.
  - B) The grantee may reserve the right to reject all bids. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the grantee. The Agency's approval shall be based upon a review of the bidding documents, and the grantee's recommendation, for compliance with the grant conditions and this Part.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- C) If award is intended to be made to a firm [thatwhich](#) did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the grantee explaining why each lower bidder was deemed not responsive or not responsible.
- D) Local laws, ordinances, regulations or procedures [thatwhich](#) are designed or operate to give local or in-state bidders preference over other bidders shall not be employed in evaluating bids.
- f) Negotiations of contract amendments (change orders)
- 1) Grantee responsibility  
The grantee is responsible for negotiation of construction contract change orders. This function may be performed by the grantee directly or by the consulting engineer, if authorized by the grantee.
- A) During negotiations the grantee shall:
- i) Provide the contractor with a detailed description of the scope and extent of work to be performed;
- ii) Require the contractor to demonstrate that he [or she](#) will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
- iii) Require a fair and reasonable price for the work.
- B) For each change order the grantee shall maintain a written summary of all negotiations and an independent cost estimate prepared by the grantee's consulting engineer.
- 2) Changes in contract price or time  
The contract price or time may be changed only by a change order. Negotiations shall be conducted in accordance with this subsection (f). The value of any work covered by a change order, or the value of claim for increases or decreases in the contract price, shall be determined by whichever method set forth [in this subsection\(f\)\(2\)below](#) is the most advantages to the grantee:

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## A) Unit prices

i) Original bid items: Unit prices set forth in the original bid are acceptable for pricing change orders. However, when changes in quantities exceed 15% ~~percent~~ of the original bid quantity, the unit price shall be reviewed by the grantee to determine if a new unit price should be negotiated.

ii) New items: Unit prices of new items shall be negotiated.

## B) A lump sum to be negotiated.

## C) Cost reimbursement

The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work plus an amount to be agreed upon to cover the cost of general overhead and profit to be negotiated.

3) For each change order, the contractor shall submit to the grantee cost and pricing data to enable the grantee to determine if the costs are fair and reasonable. ~~The Such~~ data shall include:

A) As a minimum, proposed change order costs shall be presented in summary format as prescribed by the Agency and shall be supported by a certification executed by the contractor that proposed costs reflect complete, current and accurate cost and pricing data applicable to the data of the change order.

B) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed price change orders and a specific total dollar amount of profit will be set forth separately in the cost summary for cost reimbursement change orders.

C) More detailed cost data than that set forth by the summary format may be required to enable the grantee to determine if the costs are fair and reasonable.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- D) For costs under cost reimbursement change orders, the contractor shall have an accounting system ~~that~~~~which~~ accounts for ~~thesueh~~ costs in accordance with ~~GAAP~~~~generally accepted accounting principles~~. This system shall provide for the identification, accumulation, and segregation of allowable and unallowable change orders. The contractor shall propose and account for allowable change order costs in a manner consistent with ~~thesueh~~ accounting procedures.
- E) Change orders awarded on the basis of review of a cost element summary and a certification of complete, current, and accurate cost pricing data shall be subject to downward renegotiation or recoupment of funds ~~when~~~~where~~ subsequent audit pursuant to this Part substantiates that ~~thesueh~~ certification was not based on complete, current and accurate cost and pricing data and on costs allowable under these regulations at the time of the change order execution.
- 4) Agency review  
For any change order, the grantee shall submit the following to the Agency for review to determine compliance with this Part:
- A) The cost and pricing data submitted by the contractor;
- B) A certification of review and acceptance of the contractor's cost or price; and
- C) A copy of the change order with a justification describing the need and reasonableness of the change order.
- 5) Profit  
For the purpose of negotiated change orders to construction contracts under Agency grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. The estimate of profit is to be reviewed by the grantee as are all other elements of price.
- 6) Allowability  
Allowability of costs for change orders shall be determined in accordance

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

with Section 661.701.

- g) Progress payments to contractors
- 1) Policy  
Except as may be otherwise required by law, prompt progress payments shall be made by grantees to prime contractors and by prime contractors to subcontractors and suppliers for eligible construction, material, and equipment costs, including those of undelivered specifically manufactured equipment, incurred under a contract under an Agency construction grant.
  - 2) Protection of progress payments made for specifically manufactured equipment  
The grantee shall assure protection of the State's interest in progress payments made for specifically manufactured equipment. This protection must be in a manner or form acceptable to the grantee and shall take the form of recordation under the Uniform Commercial Code (~~810 ILCS 5~~[Ill. Rev. Stat. 1987, ch. 26, pars. 1-101 et seq., as amended](#)), adequate to protect the interest of the grantee and the State.
  - 3) Limitations on progress payments  
In no case may progress payments for undelivered equipment or items be made in any amount greater than ~~75%seventy-five percent~~ of the cumulative incurred costs allocable to contract performance with respect to the undelivered equipment or items. Submission of a request for any ~~such~~ progress payments shall be accompanied by a certification furnished by the fabricator of the equipment or item that the amount of progress payment claimed constitutes not more than ~~75%seventy-five percent~~ of cumulative incurred costs allocable to contract performance, and in addition, in the case of the first progress payment request, a certification that the amount claimed does not exceed ~~15% percent~~ of the contract or item price quoted by the fabricator.
  - 4) A subcontractor or supplier ~~that~~[which](#) is determined by the Agency to have frustrated the intent of the provisions regarding progress payments for major equipment or specifically manufactured equipment through failure to deliver the equipment shall be determined nonresponsible.
  - 5) Contract provisions

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

Appropriate provisions regarding progress payments must be included in each contract and subcontract.

- 6) The foregoing progress payments policy shall be implemented in invitations for bids under construction grants.
  - h) Retention from progress payments
    - 1) The grantee may retain a portion of the amount otherwise due the contractor. Except as provided in subsection (h)(1)(D), the amount retained by the grantee shall be limited to the following:
      - A) The withheld amounts shall be not more than 10% ~~percent~~ of the payment claimed until the work is 50% ~~percent~~ complete.
      - B) When work is 50% ~~percent~~ complete, the withheld amount shall be reduced to 50% ~~percent~~ of the dollar value of all work satisfactorily completed to date if the contractor is making satisfactory progress and there is no specific cause for greater withholding (as determined by the grantee).
      - C) When the work is substantially complete (operational or beneficial occupancy), the withheld amount shall be further reduced below 5% ~~percent~~ to only the amount necessary to assure completion.
      - D) The grantee may reinstate up to 10% ~~percent~~ withholding if the grantee determines, at its discretion, that the contractor is not making satisfactory progress or there is other specific cause for withholding (as determined by the grantee).
    - 2) The foregoing retention policy shall be implemented with respect to all construction projects for which plans and specifications are approved. Appropriate provision to assure compliance with this policy shall be included in the bid documents for such projects initially or by addendum prior to the bid submission date, and as a special condition in the grant agreement or in a grant amendment.
    - 3) A grantee who delays disbursement of grant funds shall be required to credit to the State all interest earned on those funds.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- i) Required construction contract provisions  
Each construction contract shall include the "General Conditions of Construction Contract Document" as set forth in Appendix A. In addition, each construction contract shall include the following provisions:
- 1) Audit; access to records:
- A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on grant work under this agreement in accordance with generally accepted accounting principles and with American Institute of Certified Public Accountants' Professional Standards (666 Fifth Avenue, New York City, New York 10019; June 1, 1987). (This incorporation contains no later amendments or editions.). The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of any cost submissions required under subsection (f) ~~of this Section~~ and a copy of the cost summary submitted to the owner. The Auditor General, the owner, the Agency, or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The contractor will provide proper facilities for such access and inspection.
- B) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to include the language set forth in subsection (i)(1) in all contract amendments or negotiated change orders in excess of \$10,000, which affect the contract price. In the case of all other prime contracts, the contractor agrees to include language set forth in Section 661.303(i)(1) in all his contracts and all tier subcontracts or change orders ~~thereto~~ directly related to project performance ~~that~~ which are in excess of \$10,000.
- C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.
- D) The contractor agrees to the disclosure of all information and reports resulting from access to records pursuant to subsection

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

(i)(1)(A). ~~When~~~~Where~~ the audit concerns the contractor, the auditing agency will afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

E) Records under subsection (i)(1)(A) shall be maintained and made available pursuant to Section 661.501 during performance on Agency grant work under this agreement and until three years from the date of final grant payment for the project. In addition, those records ~~that~~~~which~~ relate to any dispute or litigation or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of ~~that~~~~such~~ dispute, appeal, litigation, claim, or exception.

2) Price reduction for defective cost or pricing data-

A) This clause is applicable only to:

- i) any negotiated prime contract in excess of \$10,000;
- ii) negotiated contract amendments or change orders affecting the price of a formally advertised, competitively awarded fixed price contract; or
- iii) any subcontract or purchase order under a prime contract other than a formally advertised, competitively awarded, fixed price contract.

B) This clause is not applicable for contracts or subcontracts to the extent that they are awarded on the basis of effective price competition.

C) If the Agency determines that any price (including profit) negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant sums because the contractor or any subcontractor furnished

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

incomplete or inaccurate costs or pricing data or data not current as certified in his certification of current cost or pricing data, then ~~that~~ price or cost or profit shall be reduced accordingly and the contract shall be modified in writing to reflect ~~the~~ reduction.

D) Failure to agree on a reduction shall be subject to 35 Ill. Adm. Code 661. Appendix A, Article 30.

3) Covenant against contingent fees

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty the owner shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of ~~the~~ commission, percentage, brokerage, or contingent fee.

4) Gratuities

A) The owner shall, by written notice to the contractor, terminate the right of the contractor to proceed under this contract if it is found, after notice and hearing, by the owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor or any agent or representative of the contractor, to any official or employee of the owner or of the State of Illinois with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this contract: ~~provided~~ ~~Provided~~, that if the existence of the facts upon which the owner makes such findings are in issue, they shall be reviewed in proceedings pursuant to 35 Ill. Adm. Code 661. Appendix A, Article 30.

B) In the event this contract is terminated as provided in subsection (i)(4)(A) the owner shall be entitled to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor.

C) The rights and remedies of the owner provided in this clause shall

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

- j) Subcontracts under construction contracts  
The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by ~~thesuch~~ prime contractor in awarding or executing ~~such~~ subcontracts shall comply with all provisions of federal, State and local law, including but not limited to all provisions set forth in this Part relating to:
- 1) Fraud and other corrupt practices; and
  - 2) Access to facilities and records, and audit of records.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.303 Contracts for Personal and Professional Services - Consulting Engineering Agreements**

- a) Scope of Application  
The provisions of subsections (a) through (i) apply to all subagreements of grantees for architectural or engineering services ~~in which~~ where the aggregate amount of services involved is expected to exceed \$10,000. When \$10,000 or less of services (e.g., for consultant or consultant subcontract service) is required, the provisions of Section 661.301(m) shall apply.
- b) Type of Contract (Subagreement)
- 1) General  
Cost reimbursement, fixed price or per diem types of contracts or combinations ~~of those contracts~~ thereof may be negotiated for architectural or engineering services.
  - 2) Contracts prohibited  
The cost-plus-percentage-of-cost and the percentage-of-construction-cost types of contract are prohibited.
  - 3) Fixed price contracts  
A fixed price contract is one ~~that~~ which established a guaranteed maximum

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

price [thatwhich](#) may not be increased except to the extent that a contract amendment increases the scope of work. A fixed price contract may be used only if the scope and extent of work to be performed are clearly defined.

- 4) Cost reimbursement contracts  
Each cost reimbursement contract must clearly establish a cost ceiling [thatwhich](#) the engineer may not exceed without formally amending the contract and a fixed dollar profit [thatwhich](#) may not be increased except in case of a contract amendment which increases the scope of the work.
- 5) Per diem contracts  
Per diem agreements should be used only when the first task under the grant involves establishing the scope and cost of succeeding tasks, or for incidental services, such as expert testimony or other intermittent or professional services. Resident engineer and resident inspection services shall be compensated under a fixed price contract or a cost reimbursement contract as described in subsections (b)(3) and (b)(4), respectively.
- 6) Compensation procedures  
If, under either a cost reimbursement or fixed price contract, the grantee desires to utilize a multiplier type of compensation, all of the following must apply:
  - A) The multiplier and the portions of the multiplier allocable to overhead and allocable to profit have been specifically negotiated;
  - B) The portion of the multiplier allocable to overhead includes only allowable items of cost under the cost principles set forth in Section 661.701;
  - C) The portions of the multiplier allocable to profit and allocable to overhead have been separately identified in the contract; and
  - D) The fixed price contract includes a guaranteed maximum price for completion of the specifically defined scope of work: the cost reimbursement contract includes a fixed dollar profit [thatwhich](#) may not be increased except in a case of a contract amendment [thatwhich](#) increases the scope of work.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## c) Negotiation

- 1) Grantees are responsible for negotiation of their contracts for architectural or engineering services. Contract procurement, including negotiation, may be performed by the grantee directly or by another non-state governmental body, person or firm retained for the purpose.
- 2) Negotiation shall be conducted in accordance with State and local laws. If State laws conflict with this Part, State laws shall take precedence over this Part. This Part shall have precedence over local ordinances.
- 3) The object of negotiations with any candidate shall be to reach agreement on the provisions of the proceed contract. The grantee and the candidate shall discuss, at a minimum:
  - A) The scope and extent of work;
  - B) Identification of the personnel and facilities to accomplish the work within the required time, including where needed, employment of additional personnel, subcontracting, joint ventures, etc;
  - C) Provision of the required technical services in accordance with regulations and criteria established for the project; and
  - D) A fair and reasonable price for the required work, to be determined in accordance with the cost and profit considerations set forth in subsections (d) and (e), and payment provisions.

## d) Cost and Price Considerations:

- 1) General  
It is the policy of the Agency that the cost and price of all subagreements and amendments to those subagreements~~thereto~~ must be considered. For each subagreement in excess of \$10,000, but not greater than \$100,000, grantees shall use the procedures described in subsection (g)(3) or an equivalent process.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 2) Subagreements over \$100,000  
For each subagreement expected to exceed \$100,000, or for two subagreements ~~that~~<sup>which</sup> aggregate more than \$100,000 awarded to an engineer for work on one project, or ~~when the~~<sup>where</sup> renegotiation or amendment itself is in excess of \$100,000, the provisions of this subsection (d)(2) shall apply.
  - A) The ~~candidate~~<sup>candidate(s)</sup> selected for negotiation shall submit to the grantee cost and pricing data described in subsection (d)(3) to enable the grantee to determine if the costs are fair and reasonable.
  - B) The grantee shall submit to the Agency for review:
    - i) The cost and pricing data submitted by the selected engineer;
    - ii) A certification of review and acceptance of the selected engineer's cost or price; and
    - iii) A copy of the proposed subagreement document.
  - C) The Agency will review the complete subagreement action and approve the grantee's compliance with this Part prior to the award of the subagreement. The grantee shall be notified upon completion of the review.
- 3) Cost Review
  - A) A review of proposed subagreement costs shall be made by the grantee.
  - B) As a minimum, proposed subagreement costs shall be presented in summary format prescribed by the Agency and shall be supported by a certification executed by the selected engineer that proposed costs reflect complete, current and accurate cost and pricing data applicable to the date of anticipated subagreement award.
  - C) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

price contracts and a maximum total dollar amount of profit shall be set forth separately in the cost summary for cost reimbursement contracts.

- D) More detailed cost data than that set forth in the summary format may be required to enable the grantee to determine if the costs are fair and reasonable.
  - E) The engineer's actual costs, direct and indirect, allowable for State participation shall be determined in accordance with the terms and conditions of the subagreement and in accordance with this Part.
  - F) The engineer shall have an accounting system which accounts for costs in accordance with [GAAP generally accepted accounting principles](#). This system shall provide for the identification, accumulation and segregation of allowable and unallowable project costs among projects in accordance with Section 661.701. The engineer must propose and account for costs in a manner consistent with [their](#) normal accounting procedures.
  - G) Subagreements awarded on the basis of review of a cost element summary and a certification of complete, current and accurate cost, and pricing data shall be subject to downward renegotiation or recoupment of funds where the Agency determines that [the](#) such certification was not based on complete, current and accurate cost and pricing data at the time of award.
- e) Profit  
The objective of negotiations shall be the determination of a fair and reasonable profit as defined in Section 661.301(c). For the purpose of subagreements under State grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. Where cost review is performed, the estimate of profit should be reviewed by the grantee as are all other elements of price.
- f) Award of Subagreement  
After the close of negotiations and after review and approval by the Agency if required pursuant to subsection (d)(2), the grantee may award the contract. Unsuccessful candidates should be notified promptly.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- g) Required Solicitation and Subagreement Provisions:
- 1) Required solicitation statement
    - A) Requests for qualification or proposals must include the following statement, as well as the proposed terms of the subagreement.

"Any contract or contracts awarded under this request for (qualifications/professional proposals) are expected to be funded in part by a grant from the Illinois Environmental Protection Agency. This procurement will be subject to the requirements of the grant offer."
    - B) Neither the State of Illinois nor the Illinois Environmental Protection Agency is nor will be a party to this request for (qualifications/professional proposals) or any resulting contract.
  - 2) Content of subagreement
    - A) Each subagreement must define:
      - i) The scope and extent of project work;
      - ii) The time for performance and completion of the contract work, and dates for completion of significant project tasks;
      - iii) Personnel and facilities necessary to accomplish the work within the required time;
      - iv) The extent of subcontracting and consultant agreements.
    - B) If any of these elements cannot be defined adequately for later tasks at the time of contract execution, the subsequent tasks or steps shall be included in the contract at a time specified in the contract.
  - 3) Required subagreement provisions  
Each consulting engineering contract must include the provisions set forth

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

in Appendix B. The grant will not be awarded unless each consulting engineering contract includes the provision set forth in Appendix B.

- h) Subagreement Payments - Architectural or Engineering Services:
- 1) Grantee payments to consulting engineers for work done during construction will be made periodically throughout the construction period.
  - 2) Upon satisfactory completion by the engineer of the work called for under the terms of a contract, and upon acceptance of ~~that~~sueh work by the grantee, with the concurrence of the Agency based upon the Agency's professional judgment as defined in Section 661.102(b), the engineer will be paid the unpaid balance of any money due for ~~that~~sueh work, including any retained percentages relating to this portion of the work.
  - 3) Payment may not be withheld for professional services, except as provided in the contract for professional services. Any withholding should be limited to only that amount necessary to assure contract compliance.
- i) Subcontracts under subagreements for architectural or engineering services
- 1) The award or execution of subcontracts under a prime contract for architectural or engineering services awarded to an engineer by a grantee, and the procurement and negotiation procedures used by the engineer in awarding ~~sueh~~ subcontracts are not required to comply with any of the provisions selection procedures, policies or principles set forth in Section 661.301 or Section 661.303, except those specifically stated in subsection (i)(2).
  - 2) The award or execution of subcontracts in excess of \$10,000 under a prime contract for architectural or engineering services and the procurement procedures used by the engineer in awarding such subcontracts must comply with the following:
    - A) Section 661.301(a); (Local preference);
    - B) Section 661.303(d); (Cost and Price Considerations); and
    - C) Section 661.303(e); (Profit).

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.305 Compliance with Procurement Requirements**

- a) **Grantee responsibility**  
The grantee is responsible for selecting the low, responsive, and responsible bidder or other contractor in accordance with ~~State~~ or local laws or ordinances, and the grant agreement directly affecting procurement, and for the initial resolution of complaints based upon alleged violations. The grantee shall promptly determine each ~~such~~ complaint upon its merits permitting the complaining party as well as any other interested party who may be adversely affected to state in writing or at a conference the basis for his ~~or her~~ views concerning the proposed procurement. The grantee must promptly furnish to the complaining party and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering and legal opinion, providing a justification for its determination.
- b) **Arbitration**  
Disputes between the grantee and any party adversely affected by the determination of the grantee made pursuant to subsection (a) shall be resolved by binding arbitration by a single arbitrator, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (140 W. 51st Street, N.Y., N.Y., 10020, 1986). (This incorporation contains no further amendments or editions.) This agreement to arbitrate shall be specifically enforceable under the Uniform Arbitration Act (~~[710 ILCS 5]~~ ~~Ill. Rev. Stat. 1985, ch. 10, par. 101 et seq.~~). The award rendered by the arbitrator shall be final, and ~~judgment~~ ~~judgement~~ may be entered upon it in any court having jurisdiction thereof. A copy of the arbitration award shall be provided to the Agency immediately upon its issuance.
- c) **Time limitations**  
Complaints under subsection (a) shall should made in writing to the grantee, with a copy to the Agency, as early as possible during the procurement process, preferably prior to issuance of an invitation for bids to avoid disruption of the procurement process. A complaint authorized by subsection (a) must be mailed by certified mail (return receipt requested), or delivered, to the grantee, with a copy to the Agency, no later than five working days after the bid opening. A request for arbitration pursuant to subsection (b) must be made to the American

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

Arbitration Association within one week after the complaining party received the grantee's adverse determination.

- d) Deferral of procurement action  
~~When~~Where the grantee has received a written complaint pursuant to subsection (a), it must defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for ten days after mailing or delivery of any written adverse determination. If a determination is made by either the grantee or the arbitrator ~~that~~which is favorable to the complainant, the terms of the solicitation must be revised or the contract must be awarded (as appropriate) in accordance with ~~this~~sueh determination.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.306 Disputes**

- a) Only the grantee may appeal to the Agency under this provision with respect to its subagreements ~~thereunder~~ for its own name and benefit. Neither a contractor nor a subcontractor of a grantee may prosecute an appeal under the disputes provision of a grant in its own name or interest.
- b) Any dispute arising under this grant ~~that~~which is not disposed of by agreement shall be decided by the Director or ~~the Director's~~his duly authorized representative, who shall reduce his ~~or her~~ decision to writing and mail or otherwise furnish a copy ~~thereof~~ to the applicant. The decision of the Director shall be based upon the application of State law and this Part to the fact presented by the Agency and the grantee. The decision of the Director shall be final and conclusive.
- c) This ~~Section "disputes" clause~~ does not preclude consideration of questions of law in connection with decisions provided for in subsection (b).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 661.307 Indemnity**

The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, ~~holdsave~~ harmless and defend the State of Illinois and the Agency from all claims for any ~~sueh~~ loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of [the Construction Contract Indemnification for Negligence Act \[740 ILCS 35\]"AN ACT in relation to indemnity in certain contracts"](#) (Ill. Rev. Stat. 1985, ch. 29, par. 61 et seq.). The grantee shall ~~require~~~~required~~ that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of ~~thesueh~~ contract or satisfaction of any and all claims arising ~~under the contract~~~~thereunder~~.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION,  
AMENDMENT, COMPLETION AND OPERATION OF PROJECT**Section 661.407 User Charges**

- a) Each applicant must develop a system of user charges prior to grant approval. The system of user charges must be enacted and enforced prior to initiation of operation of the project for which the grant was awarded.
- b) The user charge system shall be consistent with the following criteria:
  - 1) The user charge system must generate sufficient revenue to offset the cost of all public water supply operation, maintenance and replacement of all equipment with a replacement life of less than 20 years required to be provided by the grantee.
  - 2) The user charge system must be enacted into law.
  - 3) For the first year of operation of new facilities, operation, maintenance, and replacement costs shall be based upon experience for the existing public water supply or shall be based upon a cost estimate provided by the grantee's engineer.
  - 4) The grantee shall review user charges annually and revise the rates periodically to reflect actual public water supply operation, maintenance, and replacement costs.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- c) Upon a written determination by the Agency that the grantee's system of user charges complies with the conditions of the grant and this Part, the implementation and maintenance of the approved system and the implementation schedules ~~therefore~~ shall become a condition of the grant subject to the provisions of Section 661.201.
- d) The grantee must maintain such records as are necessary to document such compliance. The grantee shall maintain such records in accordance with the provisions of the Local Records Act (~~[50 ILCS 205]Ill. Rev. Stat. 1985, ch. 116, pars. 43-101 et seq.~~), except that no ~~such~~ records may be destroyed for a period of 30 years unless microfilm reproduction ~~is~~ made.
- e) The Agency or any authorized representative shall have access to any books, documents, papers, and records of the grantee ~~that~~~~which~~ are applicable to the grantee's systems of user charges for the purpose of making audit, examination, excerpts, and transcriptions ~~thereof~~ to ensure compliance with the provisions of subsection (b).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: REQUIREMENTS APPLICABLE TO  
ACCESS, AUDITING, AND RECORDS**Section 661.502 Audit and Records**

- a) The grantee shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices that conform to ~~GAAP~~~~generally accepted accounting principles~~ to properly account for:
- 1) The receipt and disposition by the grantee of all assistance received for the project, including both State assistance and any matching share or cost sharing; and
  - 2) The costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project, for which the grant has been awarded. The foregoing ~~constitutes~~~~constitute~~ "records" for the purposes of this condition.
- b) The grantee's facilities, or ~~such~~ facilities as may be engaged in the performance of

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

the project for which grant has been awarded, and the grantee's records shall be subject to inspection and audit by the Agency or any authorized representative at the times specified in Section 661.501.

- c) The grantee shall preserve and make his or her records available to the Agency or any authorized representative:
  - 1) Until expiration of 3 years from the date of final payment under this grant, and
  - 2) For such longer period, if any, as is required by applicable statute or lawful requirement, or by subsections (d) or (e).
- d) If this grant is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.
- e) Records thatwhich relate to appeals under the Section 661.306, litigation or the settlement of claims arising out of the performance of the project for which this grant was awarded, or costs and expenses of the project as to which exception has been taken by the Agency or any of its duly authorized representatives, shall be retained until allsueh appeals, litigation, claims, or exceptions have been disposed.
- f) Any failure by the grantee or any contractor or subcontractor of the grantee to make records available to the Agency as required by this Section after 10 days' written notice from the Agency, shall be cause for termination of the grant, pursuant to Section 661.203, and refund to the State of Illinois of any unexpended grant funds in the hands of the grantee, and in addition thereto, refund of any grant funds previously expended by the grantee, contractor or subcontractor found in noncompliance with this Section.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: INCORPORATED REQUIREMENTS

**Section 661.601 Statutory Conditions**

- a) All grants are awarded subject to State law, including but not limited to the requirements of the following Illinois statutes:

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) The Illinois Architecture Act ~~of 1989 ([225 ILCS 305]Ill. Rev. Stat. 1985, ch. 111, par. 1201 et seq.)~~ relating to the practice of architecture.
- 2) ~~The Adjacent Landowner Excavation Protection Act"AN ACT to prescribe the duty of an owner or occupant of lands upon which excavations are made in reference to the furnishing of lateral and subjacent support to adjoining lands and structures thereon"~~ ([765 ILCS 140]Ill. Rev. Stat. 1985, ch. 111 1/2, Par. 3301 et seq.) relating to the duty of an owner or occupant of land upon which excavations are made in reference to the furnishing of lateral and subjacent support ~~to~~ adjoining lands and structures ~~on those lands~~thereon.
- 3) Section 18f of ~~the Rivers, Lakes, and Streams Act"AN ACT in relation to the regulation of the rivers, lakes and streams of the State of Illinois"~~ ([615 ILCS 5/18f]Ill. Rev. Stat. 1985, ch. 19, par. 65f) relating to flood plains.
- 4) ~~The Public Construction Bond Act"AN ACT in relation to bonds of contractors entering into contracts for public construction"~~ ([30 ILCS 550]Ill. Rev. Stat. 1985, ch. 29, par. 15 et seq.) relating to bonds of contractors entering into contracts for public construction.
- 5) ~~The Public Works Employment Discrimination Act"AN ACT to prohibit discrimination and intimidation on account of race, creed, color, sex, religion, physical or mental handicap unrelated to ability, or national origin in employment under contracts for public buildings or public works"~~ ([775 ILCS 10]Ill. Rev. Stat. 1985, ch. 29, par. 17 et seq.) relating to the prohibition of discrimination and intimidation on account of race, creed, color, sex or national origin in employment under Contracts for Public Works.
- 6) ~~The Prevailing Wage Act"AN ACT regulating wages of laborers, mechanics and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by any one under contract for public works"~~ ([820 ILCS 130]Ill. Rev. Stat. 1985, ch. 48, par. 39s-1 et seq.) relating to the regulation of laborers, mechanics and other workmen employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

for public works.

- 7) The Health and Safety Act (~~[820 ILCS 225]Ill. Rev. Stat. 1985, ch. 48, par. 137.1 et seq.~~) relating to the health and safety of persons employed and vesting in the Workers' Compensation Commission~~industrial commission~~ power to make reasonable rules relating to health and safety~~thereto~~.
- 8) The Workers' Compensation Act (~~[820 ILCS 305]Ill. Rev. Stat. 1985, ch. 48, par. 138.1 et seq.~~) relating to providing compensation for accidental injuries or death suffered in the course of employment within this State, and ~~outsidewithout~~ the State when~~where~~ the contract of employment is made within this State.
- 9) The Medical Examination of Employees Act"~~AN ACT forbidding employers to require employees or applicants for employment to pay the cost of medical examinations required as a condition of employment"~~ (~~[820 ILCS 235]Ill. Rev. Stat. 1985, ch. 48, par. 172d et seq.~~) relating to forbidding employers to require employees or applicants for employment to pay the cost of medical examinations required as a condition of employment.
- 10) The Workers' Occupational Diseases Act (~~[820 ILCS 310]Ill. Rev. Stat. 1985, ch. 48, par. 172.36 et seq.~~) relating to providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment.
- 11) The Employment of Illinois Workers on Public Works Act"~~AN ACT concerning the distribution of certain federal grants and the employment of Illinois workers"~~ (~~[30 ILCS 570]Ill. Rev. Stat. 1985, ch. 48, par. 2201 et seq.~~) relating to employment of Illinois laborers only during periods of excessive unemployment in Illinois.
- 12) The Illinois Professional Engineering Practice Act of 1989 (~~[225 ILCS 325]Ill. Rev. Stat. 1985, ch. 111, par. 5101 et seq.~~) relating to the practices of professional engineering.
- 13) The Notice By Publication Act"~~AN ACT to revise the law in relation to notices"~~ (~~[715 ILCS 5]Ill. Rev. Stat. 1985, ch. 100, par. 1 et seq.~~) relating

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

to publication of notices.

- 14) Sections 3 and 4 of the Public Officer Prohibited Activities Act"~~AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" ([50 ILCS 105/3 and 50 ILCS/4]~~Ill. Rev. Stat. 1985, ch. 102, pars. 3 and 4) relating to the prevention of fraudulent and corrupt practices in the making or accepting of contracts by public officers.
- 15) The Open Meetings Act (~~[5 ILCS 120]~~Ill. Rev. Stat. 1985, ch. 102, par. 41 et seq.) relating to meetings.
- 16) The Environmental Protection Act (~~[415 ILCS 5]~~Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1001 et seq.) and regulations thereunder.
- 17) The ~~Illinois~~-Structural Engineering Practice Act of 1989 (~~[225 ILCS 340]~~Ill. Rev. Stat. 1985, ch. 111, par. 6501 et seq.) relating to the practice of structural engineering.
- 18) The Illinois Grant Funds Recovery Act [30 ILCS 705] concerning grant funds in the State of Illinois.
- b) The grantee is solely responsible for assuring compliance with all applicable federal and ~~State~~ statutory and regulatory requirements.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

**Section 661.705 Maximum Grant Share**

- a) ~~The~~Except as provided in subsection (b), the total percentage of State grant funding for allowable project costs, as described in Section ~~661.701~~660.701, ~~is subject to any local match requirements set forth in the Act~~will not exceed 70 percent.
- b) If the monies appropriated for the grant are from a source other than the Build Illinois Fund or the Build Illinois Purposes Fund, and ~~that~~such appropriation expressly states a specific percentage of State grant funding for the project, the

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

percentage set forth in the appropriation shall be the percentage of grant funding for allowable project costs as described in Section 661.701.

- c) The State share of project design costs shall be an allowance in accordance with the provisions of Appendix C of this Part.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
190.2	Amendment
190.90	Amendment
190.140	Amendment
190.150	Repealed
190.165	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments include the repeal of Section 190.150; concerning reverse mortgages, as those provisions have been codified into law pursuant to PA 99-331 which created the Reverse Mortgage Act. Also included with this proposal are amendments to Section 190.165 concerning member business loans, fixed assets and real estate lending provisions, due to recently NCUA rule changes on these three subjects. In order to keep Illinois state chartered credit unions on par with federally chartered credit unions, the Division is putting forth these amendments.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, the USPAP definition being added to Section 190.2 of this Part.
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield IL 62786

217/785-0813  
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments to this Part.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2016

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 190

## ILLINOIS CREDIT UNION ACT

## SUBPART A: GENERAL PROVISIONS

## Section

190.2	Definitions
190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.15	Civil Penalty
190.20	Hearings
190.25	Regulatory Examination Consistency and Due Process
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
190.70	Loan Loss Accounting Procedures
190.80	Use of Electronic Data Processing
190.90	Fixed Asset Investments
190.100	Classes of Share and Special Purpose Share Accounts
190.110	Share Drafts
190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage ( <del>Repealed</del> )
190.160	Lending Limits – Consumer Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.185	Investment in "Other Financial Institutions"
190.190	Liquidation
190.200	Conversion of Charter
190.210	Reimbursement for Financial Records
190.220	Registration of Out of State Credit Unions

## SUBPART B: HIGH RISK HOME LOANS

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## Section

190.500	Definitions
190.505	Applicability of Rule
190.510	Good Faith Requirements
190.515	Fraudulent or Deceptive Practices
190.520	Prohibited Refinances
190.525	Negative Amortization
190.530	Negative Equity
190.535	Balloon Payments
190.540	Financing of Certain Points and Fees
190.545	Financing of Single Premium Insurance Products
190.550	Lending Without Due Regard to Ability to Repay
190.555	Verification of Ability to Repay
190.560	Payments to Contractors
190.565	Counseling Prior to Perfecting Foreclosure
190.570	Mortgage Awareness Program
190.575	Offer of Mortgage Awareness Program
190.580	Third Party Review

## SUBPART C: PAYDAY LOANS

## Section

190.600	Definitions
190.601	Purpose and Scope
190.605	Applicability of Rule
190.610	Issuance of Payday Loans by Credit Unions

190.APPENDIX A Estimated Monthly Income and Expenses Worksheet

190.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793,

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 37 Ill. Reg. 12450, effective July 16, 2013; amended at 38 Ill. Reg. 19910, effective October 17, 2014; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 190.2 Definitions**

For purposes of the Illinois Credit Union Act and this Part, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise.

"Act" means the Illinois Credit Union Act [205 ILCS 305].

"Credit union" means a credit union chartered under the Illinois Credit Union Act, or, as the context permits, under the Federal Credit Union Act or the laws of any state.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions. As provided in Section 8(1) of the Act, the Director shall oversee the functions of the Division and report to the Secretary with respect to the Director's exercise of any of the rights, powers and duties vested by law in the Secretary under the Act or this Part.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"GAAP" or "generally accepted accounting principles" means U.S. Generally Accepted Principles promulgated by the Financial Accounting Standards Board (see <http://www.fasb.org>).

"NCUA" means the National Credit Union Administration.

"Net worth" means retained earnings, as defined under GAAP, and secondary capital. Net worth does not include the allowance for loan losses account.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

"Secondary capital" means a secondary capital account or other form of non-share account, including without limitation a debt instrument, subject to the following conditions:

The maturity or the account shall not be less than three years and the account shall not be redeemable prior to maturity or the expiration of a minimum withdrawal notice period of three years.

The account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

The account holder's claim against the credit union must be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

Funds in the account, including interest accrued and paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. In lieu of being paid into the account, interest may be paid directly to the account holder or into a separate account from which the account holder may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time losses are realized.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

The account may not be pledged or provided by the account holder as security on a loan or obligation with the credit union or any other party.

In the event of liquidation of the credit union, the accounts will, to the extent they are not needed to cover losses at the time of liquidation, be paid out to the account holder.

"Paid-in and unimpaired capital" or "unimpaired capital" means shares as defined in Section 1.1 of the Act.

"Person" or "persons" means individuals and bodies politic and corporate, including without limitation corporations, limited liability companies, general partnerships, limited partnerships and joint ventures; unless, from the context and facts, the intention is plain to apply only to individuals. Persons who reside in or live in a geographical area include non-natural persons located within the geographical area.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or a person authorized by the Secretary, the Act or this Part to act in the Secretary's stead. As provided in Section 8(1) of the Act, all references in the Act or this Part to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or the Act to assume responsibility for the oversight of the functions of the Department relating to the regulatory supervision of credit unions under the Act and this Part.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any of the several territories and possessions of the United States. When capitalized, the term "State" generally means the State of Illinois.

"Surplus" means undivided earnings.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant to Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published biennially by the Appraisal Standards Board of The Appraisal Foundation, 1155 15th Street N.W., Suite 1111, Washington DC 20005

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

(effective January 1, 2016 through December 31, 2017; no later amendments or editions).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.90 Fixed Asset Investments**

## a) Definitions

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to that partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

- b) Investment in Fixed Assets
- 1) Credit unions with assets of less than \$1,000,000 that choose to invest in premises must apply to the Division for approval.
  - 2) Credit unions with assets of \$1,000,000 or more may invest in fixed assets, without the prior approval of the Division, ~~subject to the following conditions:~~
    - A) ~~the aggregate amount of the investments does not exceed the lesser of 70% of the credit union's retained earnings or 6% of total assets; or~~
    - B) ~~the aggregate amount of the investments exceeds the lesser of 70% of the credit union's retained earnings or 6% of total assets; provided the credit union has:~~
      - i) ~~a current net worth of 9% or, if applicable, 200 basis points over its risk-based net worth level, whichever is higher;~~
      - ii) ~~a composite CAMEL rating of 1 or 2 for 2 consecutive examinations; and~~
      - iii) ~~a consistency in management evidenced by retention of the same chief management official during the 2-year period preceding the subject fixed asset investment.~~
- e) ~~Whenever a fixed asset investment in premises does not require Division approval, the credit union shall give the Division notice of the credit union's intent to make the investment, at least 14 days prior to becoming obligated on the investment in premises.~~
- 1) ~~The notice to the Division shall include the following information:~~
    - A) ~~the credit union's calculation of its total fixed asset investment~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~authority;~~

~~B) the estimated total cost of the planned fixed asset investment in premises;~~

~~C) a general description of the planned fixed asset investment in premises.~~

~~2) Notice under this subsection (c) is effective as of the date the notice is transmitted from the credit union.~~

cd) Credit unions with assets of less than \$1,000,000 seeking to invest in premises ~~or credit unions with assets of \$1,000,000 or more seeking to invest in fixed assets in an amount that exceeds the lesser of 70% of retained earnings or 6% of total assets and not exempted from obtaining approval by subsection (b)(2)(B)~~ must submit to the Division an application for approval. The application for approval must contain the following minimum supporting documentation:

- 1) why the purchase and/or lease is necessary to serve the credit union's members;
- 2) details of the proposed transaction including:
  - A) location and full description of the fixed asset;
  - B) if a purchase of premises is involved, current valuation by an independent appraiser;
  - C) purchase price or lease details;
  - D) current owners and their relationship to the credit union or to any members of the credit union;
  - E) how the project will be financed;
  - F) if a purchase, lease or improvement of premises is involved, a summary of planned due diligence inspections to verify building, building line and use or occupancy restrictions; conditions and covenants on record; zoning laws and ordinances; easements for

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

public utilities; and other matters pertinent to the transaction; and

G) evidence that the increase in operating expenses caused by the project can be supported after accounting for the current level of expenses and dividend commitments;

3) the credit union's latest balance sheet, income statement and loan delinquency report;

4) a certified copy of Board minutes that contain approval for the project.

de) The Division shall respond to applications for approval of fixed asset investments as follows:

1) The Division shall inform the credit union applicant, in writing, of the date the letter of application was received.

2) Approval of applications shall be given in writing once it is determined by the Division that the proposal will not adversely affect the credit union's financial position. The determination will be based on the past history, current financial condition, projections of the credit union, and whether the increase of operating expenses caused by the project can be supported after accounting for the current level of expense, dividend and reserve commitments.

3) An approval will state a dollar amount or percentage of retained earnings that may be invested in fixed assets by the credit union.

4) The Division shall provide to credit union applicants written notification of action taken within 45 calendar days after receipt of the complete package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the Division, the credit union may proceed with its proposed investment in fixed assets.

ef) A credit union that has received approval for a specific fixed asset transaction from the Division prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after the date of

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

promulgation, without further Division approval.

- f) In recording all transactions for fixed assets, GAAP shall be followed.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.140 Real Estate Lending**

- a) A credit union with total assets greater than \$1 million may, following a resolution of its board, make loans secured by a lien on real estate, including an assignment of a beneficial interest in a land trust, subject to the following procedures:

Total Assets of a Credit Union	Maximum Amount of Loans Secured by Real Estate	Aggregate of All First Mortgage Loans Secured by Real Estate
Under \$1 million	Lending Limits for Consumer Loans	0% of total assets
\$1 - 2.5 million	\$165,000*	25% of total assets
\$2.5 - 5 million	\$250,000*	30% of total assets
\$5 - 10 million	\$330,000	35% of total assets
\$10 - 30 million	\$580,000	40% of total assets
\$30 - 100 million	\$825,000	45% of total assets
Over \$100 million	\$1,000,000	50% of total assets

\* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (e).

- b) Credit unions with assets under \$1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in Section 190.160. Credit unions with assets under \$1 million shall not make first mortgage real estate loans.
- c) Credit unions shall not make first mortgage real estate loans for more than the estimated market value or appraised value of the real estate securing the loans. Real estate loans, other than first mortgage loans, shall be limited to the value of the member-borrower's equity in the real estate securing the loan, provided a credit union may consider as equity any outstanding loan amount secured by the real estate if the outstanding loan will be repaid with the proceeds of the credit

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

union's loan.

- d) The maximum individual lending limit and the maximum ratio of first mortgage real estate loans may be increased by obtaining written approval from the Secretary. Approval is to be based upon the need of the members and the credit union's real estate lending record.
- e) The maximum limit on an individual loan by credit unions with assets greater than \$1 million is in addition to the secured and unsecured lending limits of Section 190.160; provided, however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2. Loans subject to the requirements for business loans ~~set forth in Section 190.165~~ shall be subject to the appraisal requirements ~~set forth in~~ of subsection (h), but shall not be subject to the other provisions of this Section.
- f) The maximum maturity of a loan secured by a first mortgage shall not exceed 40 years.
- g) Procedures
  - 1) All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Secretary, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable Illinois and federal statutes shall be observed.
  - 2) All accounting for real estate loan transactions shall be in accordance with GAAP.
- h) Documentation
  - 1) Any credit union granting loans secured by a lien in real estate must procure and retain the following documentation in its files:
    - A) A loan application that specifies the purpose of the loan (equity, purchase, construction, refinance, etc.). The application must

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

contain sufficient information to support the approval of the loan. The information shall include without limitation: the amount of the loan requested; the purchase price (if applicable); a listing of the borrower's assets and liabilities; a statement of the borrower's income; a specific identification of the property; and an explanation of the source of the borrower's down payment. If the loan proceeds will be used for the purchase of the property, a copy of the real estate sale contract shall be included as an attachment to the application.

- B) A legal opinion from the credit union's attorney, or a title insurance policy that identifies the credit union's lien position on the property used to secure the loan. In the case of home equity lines of credit, second mortgages, and non-purchase money first mortgage transactions, a title search prepared by a service provider capable of conducting a search shall be acceptable.
- C) For transactions of \$250,000 or less, a written estimate of market value of the property securing the loan, performed by an individual having no direct or indirect interest in the property and experienced to perform estimations of value for the type and amount of credit being considered. For transactions over \$250,000, an appraisal by a state certified or licensed appraiser that estimates the market value of the property used as security for the loan.
- D) A credit report prepared by the credit union or a credit reporting agency. The report, in conjunction with the information contained in subsection (h)(1)(A), must demonstrate the applicant's past history of repayment and ability to repay the loan in question.
- E) A duly executed note and mortgage agreement that outline the borrower's agreement to repay the loan on the terms agreed, and the borrower's agreement to provide the credit union with a valid security interest in the subject property. The mortgage agreement must contain an accurate legal description of the subject property and be duly recorded in the office of the appropriate county recorder of deeds.
- F) A settlement statement reflecting all costs of closing and all

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

disbursements of funds at closing for real estate loans that require the use of a settlement statement under the federal Real Estate Settlement Procedures Act (RESPA) (12 USC 2601).

- G) On any loan for which the lesser of the loan-to-value ratio or loan-to-purchase price ratio exceeds 80%, the credit union may require the borrower to obtain private mortgage insurance insuring the excess of the loan above the 80% factor.
  - H) In the event the subject loan is to be used for the construction of a residential dwelling that is or will be the principal residence of the member-borrower and the loan will be secured by a perfected first lien or first security interest in favor of the credit union, the credit union must obtain satisfactory evidence of the payment in full of the costs of furnishing labor and material in connection with the construction. The evidence shall include receipt of an owner's statement, under oath, setting forth the names of all parties with whom the owner has contracted for the furnishing of labor and material; a general contractor's sworn statement from each of the parties named in the owner's statement; a subcontractor's sworn statement from each subcontractor named in the general contractor's statement; and partial and final unconditional lien waivers from the general contractor and all subcontractors and materialmen indicating that they have completed their respective portion of the work and been paid in full. The credit union must inspect, or cause to be inspected by a third party, the completion of each phase of the work for which an advance of any portion of the loan proceeds is sought. Any such inspections must be clearly documented in the file as to the date of the inspection and a brief explanation of the work progression. Additionally, the credit union must obtain a borrower payment authorization, in connection with each payment to the general contractor. This subsection (h)(1)(H) shall not apply to a loan to finance the repair, alteration or improvement of a residential dwelling which is the residence of the member-borrower.
- 2) A loan secured by a lien on real estate is exempt from the requirements of subsections (h)(1)(B), (C) and (G) of this Section if the loan complies with the following criteria:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- A) The loan is not used for the purchase or refinancing of the real estate securing the loan.
- B) The lien on real estate is taken as collateral solely through an abundance of caution.
- C) The terms of the transaction are not more favorable than they would have been in the absence of the lien on real estate.
- D) The transaction complies with the lending limits and other requirements for consumer loans set forth in Section 190.160.

## i) Sale of Real Estate Loans

- 1) A credit union may sell, in whole or in part, any loan secured by real estate to:
  - A) Federal National Mortgage Association (FNMA).
  - B) Government National Mortgage Association.
  - C) Federal Home Loan Mortgage Corporation.
  - D) The Federal Home Loan Bank of the Federal Home Loan Bank System district in which the credit union is located.
  - ED) Federal, Illinois and Local Housing Authorities.
  - FE) Federal or Illinois Chartered Credit Unions, Banks, Savings Banks and Savings and Loan Associations chartered under the laws of the United States, the State of Illinois or any other state .
  - GF) Residential mortgage licensees properly registered with and licensed by the Department of Financial and Professional Regulation-Division of Banking.
  - HG) Other institutions approved by the Secretary.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 2) All such sales shall not be subject to recourse or repurchase that enables the credit union to retain control over the transferred assets. The credit union shall have surrendered control over the transferred assets if:
  - A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors;
  - B) The purchaser has the right to pledge or exchange the assets; and
  - C) The credit union does not maintain effective control over the transferred assets through an agreement that both entitles and obligates the credit union to repurchase the assets before their maturity.
- 3) A limited recourse provision in a sale agreement that obligates the credit union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.150 Reverse Mortgage (Repealed)**

- a) ~~"Reverse Mortgage" loans shall be granted by credit unions authorized to make real estate loans under Section 46(2) of the Act and for the purposes stated in Section 46(3) of the Act. The loans must be on forms and in a manner consistent with all relevant statutory and regulatory authority, including Section 190.140.~~
- b) ~~The loans shall be based upon prudent lending and underwriting standards and procedures.~~
- c) ~~No such loan, including any existing liens, shall exceed 80% of the appraised value of the real estate.~~
- d) ~~The total of all these loans may not, without prior approval of the Secretary, exceed one third of all real estate loans outstanding.~~

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.165 Business Loans**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

a) Purpose and Scope

- 1) This Section is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that an Illinois chartered credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory limit on the aggregate amount of member business loans that a federally insured credit union may make pursuant to Section 107A of the Federal Credit Union Act (12 USC 1757a). This Section distinguishes between these two distinct objectives.
- 2) Credit unions and loans covered by this Section.
  - A) This Section applies to Illinois chartered natural person credit unions. However, an Illinois chartered natural person credit union is not subject to subsections (c) and (d) if it meets all of the following conditions:
    - i) The credit union's total assets are less than \$250 million.
    - ii) The credit union's aggregate amount of outstanding commercial loan balances and unfunded commitments, plus any outstanding commercial loan balances and unfunded commitments of participations sold, plus any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union total less than 15% of the credit union's net worth.
    - iii) In a given calendar year the amount of originated and sold commercial loans the credit union does not continue to service total less than 15% of the credit union's net worth.
  - B) This Section does not apply to loans:
    - i) Made by a corporate credit union, as defined in Section 1.1 of the Act;



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

the loan to the borrower. Exceptions to this definition for partnerships, joint ventures and associations are as follows:

- A) If the borrower is a partnership, joint venture or association, and the other person with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower is a member or partner of the borrower, and neither a direct benefit nor a common enterprise exists, this other person is not an associated borrower.
- B) If the borrower is a member or partner of a partnership, joint venture, or association, and the other entity with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower is the partnership, joint venture, or association and the borrower is a limited partner of that other entity, and by the terms of a partnership or membership agreement valid under applicable law, the borrower is not held generally liable for the debts or actions of that other entity, this other entity is not an associated borrower.
- C) If the borrower is a member or partner of a partnership, joint venture, or association, and the other person with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower is another member or partner of the partnership, joint venture, or association, and neither a direct benefit nor a common enterprise exists, this other person is not an associated borrower.
- 2) "Commercial loan" means any loan, line of credit, or letter of credit (including any unfunded commitments), and any interest a credit union obtains in loans made by another lender, to individuals, sole proprietorships, partnerships, corporations, or other business enterprises for commercial, industrial, agricultural, or professional purposes, but not for personal expenditure purposes. Excluded from this definition are loans: made by a corporate credit union; made by a federally insured credit union to another federally insured credit union; made by a credit union to a credit union service organization; made by a credit union not subject to Section 107A of the Federal Credit Union Act (12 USC 1757a) to another credit union; secured by a 1 to 4 family residential property (whether or

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

not it is the borrower's primary residence); fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; secured by a vehicle manufactured for household use; and loans that would otherwise meet the definition of commercial loan and that, when the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union to a borrower or an associated borrower are less than \$50,000.

3) "Common enterprise" means:

A) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in subsection (b)(3)(B) are met;

B) Loans or extensions of credit are made:

i) To borrowers who are related directly or indirectly through common control, including when one borrower is directly or indirectly controlled by another borrower; and

ii) Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence means 50% or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions and similar receipts or payments; or

C) Separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests.

4) "Control" means a person or entity directly or indirectly, or acting through or together with one or more persons or entities:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- A) Owns, controls, or has the power to vote 25% or more of any class of voting securities of another person or entity;
  - B) Controls, in any manner, the election of a majority of the directors, trustees or other persons exercising similar functions of another person or entity; or
  - C) Has the power to exercise a controlling influence over the management or policies of another person or entity.
- 5) "Credit risk rating system" means a formal process that identifies and assigns a relative credit risk score to each commercial loan in a credit union's portfolio, using ordinal ratings to represent the degree of risk. The credit risk score is determined through an evaluation of quantitative factors based on financial performance and qualitative factors based on management, operational, market and business environmental factors.
- 6) "Direct benefit" means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's-length transaction when the proceeds are used to acquire property, goods or services.
- 7) "Immediate family member" means a spouse or other family member living in the same household.
- 8) "Loan secured by a 1 to 4 family residential property" means a loan that, at origination, is secured wholly or substantially by a lien on a 1 to 4 family residential property for which the lien is central to the extension of the credit; that is, the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1 to 4 family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.
- 9) "Loan secured by a vehicle manufactured for household use" means a loan that, at origination, is secured wholly or substantially by a lien on a new and used passenger car and other vehicle such as a minivan, sport-utility

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

vehicle, pickup truck, and similar light truck or heavy-duty truck generally manufactured for personal, family, or household use and not used as a fleet vehicle or to carry fare-paying passengers, for which the lien is central to the extension of credit. A lien is central to the extension of credit if the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a vehicle manufactured for household use if the estimated value of the collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.

- 10) "Loan-to-value ratio" means, with respect to any item of collateral, the aggregate amount of all sums borrowed and secured by that collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union's lien position, divided by the current collateral value. The current collateral value must be established by prudent and accepted commercial lending practices and comply with all regulatory requirements. For a construction and development loan, the collateral value is the lesser of cost to complete or prospective market value, as determined in accordance with subsection (f).
- 11) "Net worth" means a credit union's net worth, as defined in Section 190.2.
- 12) "Readily marketable collateral" means a financial instrument or bullion that is salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.
- 13) "Residential property" means a house, condominium unit, cooperative unit, manufactured home (whether completed or under construction) or unimproved land zoned for 1 to 4 family residential use. A boat or motor home, even if used as a primary residence, or timeshare property is not residential property.

- c) Board of Directors and Management Responsibilities  
Prior to engaging in commercial lending, a credit union must address the following board responsibilities and operational requirements:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Board of directors. A credit union's board of directors, at a minimum, must:
  - A) Approve a commercial loan policy that complies with subsection (d). The board must review its policy on an annual basis, prior to any material change in the credit union's commercial lending program or related organizational structure, and in response to any material change in portfolio performance or economic conditions, and update it when warranted.
  - B) Ensure the credit union appropriately staffs its commercial lending program in compliance with subsection (c)(2).
  - C) Understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of risk in the credit union's commercial loan portfolio, including its potential impact on the credit union's earnings and net worth.
- 2) Required expertise and experience. A credit union making, purchasing or holding any commercial loan must internally possess the following experience and competencies:
  - A) Senior executive officers. A credit union's senior executive officers overseeing the commercial lending function must understand the credit union's commercial lending activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial lending in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.
  - B) Qualified lending personnel. A credit union must employ qualified staff with experience in the following areas:
    - i) Underwriting and processing for the type of commercial lending in which the credit union is engaged;
    - ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 3) Maximum amount of assets, in relation to net worth, allowed:
  - A) in secured, unsecured and unguaranteed commercial loans;
  - B) in any given category or type of commercial loan; and
  - C) to any one borrower or group of associated borrowers, provided:
    - i) the policy must specify that the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15% of the credit union's net worth or \$100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral, as defined in subsection (b);
    - ii) any insured or guaranteed portion of a commercial loan made through a program in which a federal or State agency (or its political subdivision) insures repayment, guarantees repayment or provides an advance commitment to purchase the loan in full, is excluded from this limit; and
    - iii) the maximum limit on commercial loans is in addition to the secured and unsecured limits established in Sections 190.140 and 190.160; provided, however, in no event shall all loans to any borrower or group of associated borrowers exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.
- 4) Qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering and collecting commercial loans.
- 5) Loan approval processes, including establishing levels of loan approval authority commensurate with the individual's or committee's proficiency in evaluating and understanding commercial loan risk, when considered in

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

terms of the level of risk the borrowing relationship poses to the credit union.

- 6) Underwriting standards commensurate with the size, scope and complexity of the commercial lending activities and borrowing relationships contemplated. The standards must, at a minimum, address the following:
- A) The level and depth of financial analysis necessary to evaluate the financial trends and condition of the borrower and the ability of the borrower to meet debt service requirements;
  - B) Thorough due diligence of the principals to determine whether any related interests of the principals might have a negative impact or place an undue burden on the borrower and related interests with regard to meeting the debt obligations with the credit union;
  - C) Requirements of a borrower-prepared projection when historic performance does not support projected debt payments. The projection must be supported by reasonable rationale and, at a minimum, must include a projected balance sheet and income and expense statement;
  - D) The financial statement quality and the degree of verification sufficient to support an accurate financial analysis and risk assessment;
  - E) The methods to be used in collateral evaluation, for all types of collateral authorized, including loan-to-value ratio limits. [These](#) methods must be appropriate for the particular type of collateral. The means to secure various types of collateral, and the measures taken for environmental due diligence must also be appropriate for all authorized collateral; and
  - F) Other appropriate risk assessment including analysis of the impact of current market conditions on the borrower and associated borrowers.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 7) Risk management processes commensurate with the size, scope and complexity of the credit union's commercial lending activities and borrowing relationships. These processes must, at a minimum, address the following:
- A) Use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;
  - B) Periodic loan review, consistent with loan covenants, sufficient to conduct portfolio risk management. This review must include a periodic reevaluation of the value and marketability of any collateral;
  - C) A credit risk rating system. Credit risk ratings must be assigned to commercial loans at inception and reviewed as frequently as necessary to satisfy the credit union's risk monitoring and reporting policies and to ensure adequate reserves as required by GAAP; and
  - D) A process to identify, report and monitor loans approved as exceptions to the credit union's loan policy.
- e) Collateral and Security
- 1) A credit union must require collateral commensurate with the level of risk associated with the size and type of any commercial loan. Collateral must be sufficient to ensure adequate loan balance protection along with appropriate risk sharing with the borrower and principals. A credit union making an unsecured loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.
  - 2) A credit union that does not require the full and unconditional personal guarantee from the principals of the borrower who has a controlling interest in the borrower must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.
- f) Construction and Development Loans  
In addition to the foregoing, the following requirements apply to a construction and development loan made by any credit union.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) For the purposes of this subsection(f), a construction or development loan means any financing arrangement enabling the borrower to acquire property or rights to property, including land or structures, with the intent to construct or renovate an income producing property, such as residential housing for rental or sale, or a commercial building, such as may be used for commercial, agricultural, industrial, or other similar purposes. It also means a financing arrangement for the construction, major expansion or renovation of the property types referenced in this subsection(f). The collateral valuation for securing a construction or development loan depends on the satisfactory completion of the proposed construction or renovation when the loan proceeds are disbursed in increments as the work is completed. A loan to finance maintenance, repairs or improvements to an existing income producing property that does not change its use or materially impact the property is not a construction or development loan.
  
- 2) A credit union that elects to make a construction or development loan must ensure that its commercial loan policy includes adequate provisions by which the collateral value associated with the project is properly determined and established. For a construction or development loan, collateral value is the lesser of the project's cost to complete or its prospective market value.
  - A) For the purposes of this subsection, "cost to complete" means the sum of all qualifying costs necessary to complete a construction project and documented in an approved construction budget. Qualifying costs generally include on-site or off-site improvements, building construction, other reasonable and customary costs paid to construct or improve a project, including general contractor's fees, and other expenses normally included in a construction contract such as bonding and contractor insurance. Qualifying costs include the value of the land, determined as the lesser of appraised market value or purchase price plus the cost of any improvements. Qualifying costs also include interest, a contingency account to fund unanticipated overruns, and other development costs such as fees and related pre-development expenses. Interest expense is a qualifying cost only to the extent it is included in the construction budget and is calculated based on the projected changes in the loan balance up to the expected "as-

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

complete" date for owner-occupied non-income producing commercial real estate or the "as-stabilized" date for income producing real estate. Project costs for related parties, such as developer fees, leasing expenses, brokerage commissions and management fees, are included in qualifying costs only if reasonable in comparison to the cost of similar services from a third party. Qualifying costs exclude interest or preferred returns payable to equity partners or subordinated debt holders, the developer's general corporate overhead, and selling costs to be funded out of sales proceeds such as brokerage commissions and other closing costs.

B) For the purposes of this subsection (f), "prospective market value" means the market value opinion determined by an independent appraiser in compliance with the relevant standards set forth in the USPAP. Prospective value opinions are intended to reflect the current expectations and perceptions of market participants, based on available data. Two prospective value opinions may be required to reflect the time frame during which development, construction and occupancy occur. The prospective market value "as-completed" reflects the property's market value as of the time that development is to be completed. The prospective market value "as-stabilized" reflects the property's market value as of the time the property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.

3) A credit union that elects to make a construction and development loan must also assure its commercial loan policy meets the following conditions:

A) Qualified personnel representing the interests of the credit union must conduct a review and approval of any line item construction budget prior to closing the loan;

B) A credit union approved requisition and loan disbursement process is established;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- C) Release or disbursement of loan funds occurs only after on-site inspections, documented in a written report by qualified personnel representing the interests of the credit union, certifying that the work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan are sufficient to complete the project; and
- D) Each loan disbursement is subject to confirmation that no intervening liens have been filed.

g) Prohibited Activities

- 1) Ineligible borrowers. A credit union may not grant a commercial loan to the following:
  - A) Any senior management employee directly or indirectly involved in the credit union's commercial loan underwriting, servicing and collection process, and any of their immediate family members;
  - B) Any person meeting the definition of an associated borrower with respect to persons identified in subsection (g)(1)(A); or
  - C) Any compensated director, unless the credit union's board of directors approves granting the loan and the compensated director was recused from the board's decision making process.
- 2) Equity agreements/joint ventures. A credit union may not grant a commercial loan if any additional income received by the credit union or its senior management employees is tied to the profit or sale of any business or commercial endeavor that benefits from the proceeds of the loan.
- 3) Conflicts of interest. Any third party used by a credit union to meet the requirements of this Section must be independent from the commercial loan transaction and may not have a participation interest in a loan or an interest in any collateral securing a loan that the third party is responsible

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

for reviewing, or an expectation of receiving compensation of any sort that is contingent on the closing of the loan, with the following exceptions:

- A) A third party may provide a service to the credit union that is related to the transaction, such as loan servicing.
- B) The third party may provide the requisite experience to a credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed.
- C) A credit union may use the services of a credit union service organization that otherwise meets the requirements of subsection (c)(2)(C) even if the credit union service organization is not independent from the transaction, provided the credit union has a controlling financial interest in the credit union service organization as determined under GAAP.

- h) Aggregate Member Business Loan Limit; Exclusions and Exceptions  
This subsection (h) incorporates the statutory limits on the aggregate amount of member business loans that may be held by a federally insured credit union and establishes the method for calculating a federally insured credit union's net member business loan balance for purposes of the statutory limits and NCUA form 5300 reporting.
- 1) Statutory limits. The aggregate limit on a federally insured credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under Section 1790d(c)(1)(A) of the Federal Credit Union Act (12 USC 1790d(c)(1)(A)).
  - 2) Definition. For the purposes of this subsection (h), member business loan means any commercial loan as defined in subsection (b), except that the following commercial loans are not member business loans and are not counted toward the aggregate limit on a federally insured credit union's member business loans:
    - A) Any loan in which a federal or State agency (or its political subdivision) fully insures repayment, fully guarantees repayment

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

or provides an advance commitment to purchase the loan in full;  
and

B) Any non-member commercial loan or non-member participation interest in a commercial loan made by another lender, provided the federally insured credit union acquired the non-member loans and participation interests in compliance with all relevant laws and regulations and it is not, in conjunction with one or more other credit unions, trading member business loans to circumvent the aggregate limit.

- 3) Exceptions. Any loan secured by a lien on a 1 to 4 family residential property that is not a member's primary residence, and any loan secured by a vehicle manufactured for household use that will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose, is not a commercial loan but it is a member business loan (if the outstanding aggregate net member business loan balance is equal to or greater than \$50,000) and must be counted toward the aggregate limit on a federally insured credit union's member business loans.
- 4) Statutory exemptions. A federally insured credit union that has a low-income designation, or participates in the Community Development Financial Institutions program, or was chartered for the purpose of making member business loans, or which as of the date of enactment of the Credit Union Membership Access Act of 1998 (P.L. 105-219) had a history of primarily making commercial loans, is exempt from compliance with the aggregate member business loan limits in this subsection (h).
- 5) Method of calculation for net member business loan balance. For the purposes of NCUA form 5300 reporting, a federally insured credit union's net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien on a member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of that state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of that state, or sold as a

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

participation interest without recourse and qualifying for true sales accounting under GAAP.

i) Transitional Provisions

This subsection (i) governs circumstances in which, as of January 1, 2017, a credit union is operating in accordance with an approved waiver from the Division or NCUA or is subject to any enforcement constraint relative to its commercial lending activities.

1) Waivers. As of January 1, 2017, any waiver approved by the Division or NCUA concerning a credit union's commercial lending activity is rendered moot except that waivers granted prior to January 1, 2017, for borrowing relationships (loans made to one borrower or group of associated borrowers) will be grandfathered. However, the debt associated with those relationships may not be increased.

2) Enforcement Constraints. Limitations or other conditions imposed on a credit union in any written directive from the Division or NCUA, including, but not limited to, items specified in any Document of Resolution, any published or unpublished Letter of Understanding and Agreement, Regional Director letter, Preliminary Warning Letter, or formal enforcement action, are unaffected by the adoption of this Section. Included within this subsection (i)(2) are any constraints or conditions embedded within any waiver issued by the Division or NCUA. As of January 1, 2017, all these limitations or other conditions remain in place, until such time as they are modified by the Division or NCUA.

j) Allowance for Loan Losses for Business Loans

Allowance for Loan Losses for Business Loans will be determined in accordance with GAAP. The external auditor conducting the credit union's financial statement audit shall analyze the methodology employed by the credit union and conclude that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with GAAP.

a) The following are definitions applicable in this Section:

1) "Associated member" means any member with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~"Construction or development loan" is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses. Construction or development loan includes a financing arrangement for the major renovation or development of property already owned by the borrower that will convert the property to income-producing property or convert the use of income-producing property to a different use from its use before the major renovation or development or is a major expansion of its current use. Construction or development loan does not include loans to finance maintenance, repairs or improvements to an existing income-producing property that do not change its use.~~
- 3) ~~"Immediate family member" means a spouse or other family member living in the same household.~~
- 4) ~~"Loan-to-value ratio" is the aggregate amount of all sums borrowed, including outstanding balances plus any unfunded commitment or line of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.~~
- 5) ~~"Member business loan" includes any loan, line of credit, or letter of credit (including any unfunded commitments) in which the borrower uses the proceeds for the following purposes:~~
  - A) ~~Commercial;~~
  - B) ~~Corporate;~~
  - C) ~~Other business investment property or venture; or~~
  - D) ~~Agricultural.~~
- 6) ~~"Net worth" has the same meaning as set forth in Section 190.2.~~
- 7) ~~"Net member business loan balance" means the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of a state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of a state, or sold as a participation interest without recourse and qualifying for true sales accounting under GAAP.~~

- 8) ~~"Primary residence" means the address at which one resides.~~
- b) ~~Exceptions to and inclusions in the definition of "member business loan":~~
  - 1) ~~The following are not member business loans:~~
    - A) ~~A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;~~
    - B) ~~A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;~~
    - C) ~~Loans to a member or an associated member that, when the net member business loan balances are added together, are equal to less than \$50,000;~~
    - D) ~~A loan in which a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or~~
    - E) ~~A loan granted by a corporate credit union to another credit union.~~
  - 2) ~~This Part does not apply to loans made by a credit union to credit unions or loans made by a credit union to credit union service organizations (CUSOs), as defined in Section 190.5.~~
  - 3) ~~Any interest a federally insured credit union obtains in a loan that was made by another lender to the credit union's member is a member business loan, for purposes of this Section and the risk weighting standards of part 702 of the National Credit Union Administration (NCUA) Regulations (12~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~CFR 702 (2013, with no later editions or amendments)) to the same extent as if made directly by the credit union to its member.~~

- ~~4) Any interest a federally insured credit union obtains in a nonmember loan, pursuant to applicable NCUA Regulations (12 CFR 701 (2007, with no later editions or amendments)), is treated the same as a member business loan for purposes of this Section and the risk weighting standards under part 702 of the NCUA Regulations, except that the effect of the interest on a credit union's aggregate member business loan limit will be as set forth in subsection (g)(2).~~
- e) ~~Prohibited Activities~~
  - 1) ~~A credit union may not grant a member business loan to the following:~~
    - A) ~~Chief executive officer;~~
    - B) ~~Any assistant chief executive officers;~~
    - C) ~~Chief financial officer;~~
    - D) ~~Any associated member or immediate family member of anyone listed in subsections (e)(1)(A) through (e)(1)(C).~~
  - 2) ~~A credit union may not grant a member business loan to a director that is compensated as an officer of the board of directors, unless the board of directors approves granting the loan and the compensated director is recused from the decision making process.~~
  - 3) ~~Equity agreements/joint ventures. A credit union may not a grant a member business loan if any additional income received by the credit union or senior management employees is tied to the profit or sale of the business or commercial endeavor for which the loan is made.~~
- d) ~~Credit unions with assets greater than \$30 million may make business loans in accordance with specific lending policies adopted by the board of directors. The policies shall be reviewed annually and shall address:~~
  - 1) ~~Types of business loans to be made within a designated trade area.~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~A requirement to analyze and document the ability of the borrower to repay the loan consistent with appropriate underwriting and due diligence standards, which also addresses the need for periodic financial statements, credit reports, and other data when necessary to analyze future loans and lines of credit, such as, borrower's history and experience, balance sheet, cash flow analysis, income statements, tax data, environmental impact assessment, and comparison with industry averages, depending upon the loan purpose.~~
- 3) **Expertise Requirement**
- A) ~~Provisions for ensuring the utilization of services of experienced personnel with at least 2 years of direct experience with the type of business loans the credit union will be making. The experience must provide the credit union sufficient expertise given the complexity and risk exposure of the loans in which the credit union intends to engage. A credit union may comply with this experience requirement without hiring staff as long as the credit union ensures that the expertise is available. For example, a credit union may use the services of a CUSO, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.~~
- B) ~~Any third party used by a credit union to meet the requirements of subsection (d)(3)(A) must be independent from the transaction and a credit union is prohibited from using a third party to meet the requirements of this subsection (d) if the credit union is purchasing a business loan, or a participating interest in a business loan, from the third party responsible for reviewing the loan, or if the third party has an interest in the collateral securing a business loan that the third party is responsible for reviewing, with the following exceptions:~~
- i) ~~The third party may provide a service to the credit union related to the transaction, such as loan servicing;~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- ~~ii) The third party may provide the requisite experience to the credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed; or~~
  - ~~iii) A credit union may use the services of a CUSO that otherwise meets the requirements of subsection (d)(3)(A) even though the CUSO is not independent from the transaction, provided the credit union has a controlling financial interest in the CUSO as determined under GAAP.~~
- ~~4) The maximum amount of the credit union's assets, in relation to net worth, that will be invested in secured and unsecured business loans, provided credit unions subject to section 107A of the Federal Credit Union Act (12 USC 1757a) may not exceed the limit set forth in subsection (g).~~
- ~~5) The maximum amount of the credit union assets, in relation to net worth, that will be invested in a given category or type of business loans.~~
- ~~6) The maximum amount of credit union assets in relation to net worth that the credit union will loan to any one member or group of associated members, subject to the limits set forth in subsections (f) and (h).~~
- ~~7) Collateral requirements, including, but not limited to:
  - ~~A) Loan to value ratios;~~
  - ~~B) Determination of value;~~
  - ~~C) Determination of ownership;~~
  - ~~D) Steps to secure various types of collateral; and~~
  - ~~E) How often the credit union will re-evaluate the value and marketability of collateral.~~~~
- ~~8) Defined interest rates and defined maturities of business loans.~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- ~~9) Loan monitoring, servicing and follow-up procedures, including collection procedures.~~
- ~~10) Identification of those individuals prohibited from receiving member business loans.~~
- e) ~~Business loans shall not be granted by credit unions with assets of \$30 million or less unless the Division has approved a credit union's request for a business loan amendment to its bylaws. The request must be accompanied with specific lending policies including but not limited to the criteria listed in subsection (d). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the Division's statutory or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with Sections 8, 9, 36 and 61 of the Act). A credit union with assets of \$30 million or less that receives approval from the Division for a business loan bylaw amendment shall comply with all other provisions of this Part.~~
- f) ~~The net member business loan balances of any one member or group of associated members shall not exceed 15% of the credit union's net worth. Credit unions seeking an exception to this limit must request a waiver in writing. The maximum limit on a member business loan is in addition to the secured and unsecured limits established in Sections 190.160 and 190.140, provided however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.~~
- g) ~~Aggregate Member Business Loan Limit~~
  - 1) ~~The aggregate limit on the net member business loan balances of a credit union subject to section 107A of the Federal Credit Union Act, excluding any business loans exempted from the aggregate member business loan limit by section 107A of the Federal Credit Union Act or part 723 of the National Credit Union Administration Regulations (12 CFR 723 (2012, no subsequent amendments or editions)), is the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act.~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~Unless the credit union member has first received approval from the Division, pursuant to subsection (g)(2)(B):~~
- A) ~~If the interest held by a credit union in any loans made by another lender to a nonmember of the credit union would constitute a member business loan if made to a member of the credit union, the total of the credit union's net member business loan balances and nonmember business loan balances must not exceed the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act, unless the credit union has first received approval from the Division pursuant to subsection (g)(2)(B).~~
  - B) ~~To request approval from the Division, a credit union must submit an application that:~~
    - i) ~~Includes a current copy of the credit union's member business loan policies;~~
    - ii) ~~Confirms that the credit union is in compliance with all other aspects of this Section;~~
    - iii) ~~States the credit union's proposed limit on the total amount of nonmember business loan interests that the credit union may acquire if the application is granted; and~~
    - iv) ~~Attests that the acquisition of an interest in nonmember business loans is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.~~
  - C) ~~If the Division approves the request of a state chartered federally insured credit union, the Division will forward the application and its decision to the NCUA regional director. An approved application is not effective until it is approved by the NCUA regional director.~~
- 3) ~~Exceptions to the aggregate loan limit for a credit union include:~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- A) ~~Credit unions that have a low income designation or participate in the federal Community Development Financial Institutions program (see 12 USC 4701 et seq.);~~
  - B) ~~Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence (such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio);~~
  - C) ~~Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report filed between January 1995 and September 1998 or any equivalent documentation, including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report filed between January 1995 and September 1998 or any equivalent documentation, including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit cards loans, and 13% total other real estate loans, then the credit union meets this exception.~~
- 4) Request for Exception
- A) ~~An exception under subsection (g)(3)(A) is effective upon written notice to the Division of that designation or participation.~~
  - B) ~~A request for an exception under subsection (g)(3)(B) or (g)(3)(C) must be submitted in writing to the Division, including documentation demonstrating that the credit union meets the criteria for the exception. Approval of an exception shall be given in writing to the credit union.~~
  - C) ~~The Division shall notify the appropriate region of the NCUA of any exception authorized or granted under subsection (g)(3). Exceptions authorized or granted under subsection (g)(3) do not expire unless revoked by the Division. The Division may revoke~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~an exception upon written notice to the credit union, for reasons including, without limitation, the lack of continuing qualification for the exception, submittal of fraudulent documentation to procure the exception, or adverse impact on safety and soundness.~~

## h) Collateral

- 1) ~~Unless the Division grants a waiver, all member business loans, except those made under subsections (h) (3), (4) and (5), must be secured by collateral. The maximum loan to value (LTV) ratios for all liens shall not exceed 80%, unless the loan amount in excess of 80% is covered through private mortgage or equivalent insurance, or is insured or guaranteed by, or subject to, an advance commitment to purchase by any agency of the federal government or a state or its political subdivisions, but in no case shall the LTV exceed 95%.~~
- 2) ~~A federally insured credit union must obtain the personal liability and guarantee of principals of the borrowers except when the borrower is a not for profit organization as defined by the Internal Revenue Code (26 USC 501), or those for which the Division grants a waiver. A personal liability and guarantee of the principals of the borrowers is required for secured and unsecured member business loans.~~
- 3) ~~Unsecured member business loans may be made if:~~
  - A) ~~The credit union has a current net worth of 7% or, if applicable, meets its risk based net worth ratio, whichever is higher, or, if it is a corporate credit union, maintains a minimum capital ratio as required by applicable rules of NCUA;~~
  - B) ~~The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not exceed the lesser of \$100,000 or 2.5% of the credit union's net worth; and~~
  - C) ~~The aggregate of all unsecured outstanding member business loans does not exceed 10% of the credit union's net worth.~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 4) ~~Credit card line of credit programs offered to nonnatural person members, or guaranteed by nonnatural persons, that are limited to routine purposes normally made available under those programs are exempt from the collateral requirement of subsections (h)(1) and (2) and the requirements of subsection (h)(3).~~
  - 5) ~~Credit unions may make vehicle loans under this Section without complying with the loan-to-value ratios in this Section, provided that the vehicle is a car, van, pick-up truck or sports utility vehicle and not part of a fleet of vehicles.~~
- i) ~~Construction Loans~~  
~~Unless the Division grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements:~~
- 1) ~~The aggregate of all construction and development net member business loan balances must not exceed 15% of the credit union's net worth. The following loans may be excluded from the calculation of the aggregate:~~
    - A) ~~loans made to finance the construction of a single family residence if a prospective homeowner has contracted to purchase the property; and~~
    - B) ~~a loan to finance the construction of one single family residence per member borrower or group of associated member borrowers, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property;~~
  - 2) ~~The borrower must have a minimum of 25% equity interest in the project being financed, the value of which is determined by the market value of the project at the time the loan is made, except that the loan-to-value requirements of subsection (h) shall apply in lieu of this equity interest requirement in the case of loans made to finance the construction of a single family residence if a prospective homeowner has contracted to purchase the property and in the case of one loan to a member borrower or group of associated member borrowers to finance the construction of a single family residence, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property; and~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.~~

~~j) Request for Waiver~~

~~1) Credit unions may request a waiver for a category of business loans in the following areas:~~

~~A) Maximum secured and unsecured loan amounts to one borrower or associated group of borrowers under subsections (f) and (h);~~

~~B) Maximum aggregate unsecured member business loan limit under subsection (h) and the requirements of subsection (h)(3);~~

~~C) Collateral requirements under subsection (h), including, without limitation, the requirement for personal liability and guarantee;~~

~~D) The aggregate amount of construction loans and the minimum equity interest in construction loans under subsection (i); and~~

~~E) Any appraisal requirements imposed by this Part with respect to loans secured by real estate.~~

~~2) A request for a waiver must be submitted in writing to the Division. The waiver request must contain the following:~~

~~A) A copy of the credit union's business lending policy;~~

~~B) The waiver sought;~~

~~C) An explanation of the higher limits sought (if applicable);~~

~~D) Documentation supporting the credit union's ability to manage this activity; and~~

~~E) An analysis of the credit union's prior experience in making member business loans, including the credit union's history of loan~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~losses and delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of borrowers in excess of 15% of net worth, underwriting standards and practices, types of loans grouped by purpose and collateral, and the qualifications of personnel responsible for underwriting and administering member business loans.~~

- 3) ~~The Division shall consider standard criteria when determining whether to grant a waiver requested by a credit union as provided in subsection (j)(1). The criteria include but are not limited to:~~
- ~~A) The two most recent Division examinations;~~
  - ~~B) The credit union's reserve/equity position;~~
  - ~~C) The credit union's current delinquency and loan loss trends; and~~
  - ~~D) The credit union's Business Lending Policy and Procedures.~~
- 4) ~~The Division shall respond to requests for waivers as follows:~~
- ~~A) The Division shall inform the credit union in writing of the date the written request for waiver was received.~~
  - ~~B) Approval of waivers shall be given in writing within 45 calendar days from receipt of the waiver request and supporting documents listed in subsection (j)(2), if it is determined by the Division that the waiver will not adversely affect the credit union's financial position.~~
  - ~~C) A waiver approved by the Division for a federally insured state chartered credit union must also be approved by NCUA, except that approval by the Division of a request under subsection (e) for a business loan bylaw amendment by a credit union with assets of \$30 million or less shall not require the approval of NCUA, nor shall approval by the Division of a waiver under subsection (f) to the maximum aggregate net member business loan balance to any one member or group of associated members if the waiver to exceed 15% of the credit union's net worth is for less than~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~§100.000. Following its approval of a waiver for a federally insured state chartered credit union, the Division shall forward the waiver request and supporting documents to the NCUA regional director and provide the credit union with written notice of the date the request was forwarded. A waiver is not effective for the credit union until it is approved by the NCUA regional director.~~

~~D) If a waiver request does not require NCUA approval, the credit union may assume approval of the waiver request if it does not receive notification within 45 days after the date the request was received by the Division.~~

k) ~~Recordkeeping Requirements~~

~~Business loans must be separately identified in a credit union's records and separately identified in the aggregate on a credit union's financial reports.~~

l) ~~Allowance for Loan Losses for Business Loans~~

~~Allowance for Loan Losses for Business Loans will be determined in accordance with GAAP. The external auditor conducting the credit union's financial statement audit shall analyze the methodology employed by the credit union and conclude that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with GAAP.~~

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Clinical Psychologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1400
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1400.20	Repealed
1400.30	Repealed
1400.40	Repealed
1400.50	Repealed
1400.60	Repealed
1400.65	Repealed
1400.70	Repealed
1400.75	Repealed
1400.80	Repealed
1400.85	Repealed
1400.90	Repealed
- 4) Statutory Authority: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: The current rules (68 Ill. Adm. Code 1400) for the Clinical Psychologist Licensing Act are being repealed and replaced with a new Part 1400. PA 98-668 created a new license for prescribing psychologists and the new Part 1400 will incorporate rules for licensing of prescribing psychologists. Due to the extensive statutory revisions and the need to update, rewrite and reorganize the underlying regulatory standards, at this time the Division is repealing the original Part 1400, while simultaneously promulgating a replacement regulation under the same Part number. The Divisions proposed rules also appears in this *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 10) Are there any other rulemakings pending on this Part? Yes, new rules are being proposed.
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice.

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield IL 62786

217/785-0813  
Fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Licensed clinical psychologists will be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: Clinical psychology skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

The full text of the Proposed Repealer begins on the next page:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1400

CLINICAL PSYCHOLOGIST LICENSING ACT (REPEALED)

## Section

1400.10	Statutory Authority (Repealed)
1400.20	Licensure Qualifications
1400.30	Experience Defined
1400.40	Application for Examination
1400.50	Examination
1400.60	Endorsement
1400.65	Renewals
1400.70	Restoration
1400.75	Fees
1400.80	Unethical, Unauthorized, or Unprofessional Conduct
1400.85	Continuing Education
1400.90	Granting Variances

AUTHORITY: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 935, effective January 15, 1981; codified at 5 Ill. Reg. 11057; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 400 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1400 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2972; emergency amendment at 13 Ill. Reg. 2519, effective February 8, 1989, for a maximum of 150 days; emergency expired July 8, 1989; amended at 14 Ill. Reg. 4515, effective March 12, 1990; amended by adding Section 1400.20(b)(10) and (c)(2)(H) and Section 1400.30(a)(4), (b)(4) and (c)(5) at 14 Ill. Reg. 12735, effective July 30, 1990; amended at 18 Ill. Reg. 11191, effective June 30, 1994; expedited correction at 19 Ill. Reg. 989, effective June 30, 1994; amended at 20 Ill. Reg. 7868, effective May 30, 1996; emergency amendment at 21 Ill. Reg. 9217, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15240, effective November 17, 1997; amended at 24 Ill. Reg. 11658, effective July 24, 2000; amended at 28 Ill. Reg. 358,

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

effective December 19, 2003; amended at 36 Ill. Reg. 15468, effective November 2, 2012; repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1400.10 Statutory Authority (Repealed)****Section 1400.20 Licensure Qualifications**

An individual applying for licensure as a clinical psychologist pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15] (the Act) shall meet the following educational/experience requirements pursuant to Section 10 of the Act:

- a) In accordance with Section 10(3)(a) of the Act, the individual shall be a graduate of a doctoral program in clinical, school or counseling psychology accredited by the American Psychological Association or approved by the Council for the National Register of Health Service Providers in Psychology and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d), one of which shall be an internship and one of which shall be postdoctoral.
- b) In accordance with Section 10(3)(b) of the Act, the individual shall be a graduate of a doctoral program that is equivalent to a clinical, school or counseling psychology program and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d), one of which shall be an internship and one of which shall be postdoctoral.
  - 1) In determining equivalent programs, the following minimum standards shall be met:
    - A) The program is from a regionally accredited university, college or school;
    - B) The program constitutes the university, college or school's clinical, school or counseling psychology program as certified by the dean of the institution and includes a practicum as defined in Section 1400.30(b). (If there is an additional clinical, school or counseling program that exists under the clinical, school or counseling psychology name, the applicant shall apply under Section 10(5) of the Act and subsection (c) of this Section);

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- C) The program, wherever administratively housed, must be clearly identified and labeled as a psychology program. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
  - D) The program is an organizational entity within the institution;
  - E) The program has an integrated, organized sequence of study;
  - F) The program has an identifiable core psychology faculty on-site and a psychologist responsible for the program;
  - G) The program has an identifiable body of students who are matriculated in that program for a degree;
  - H) The program encompasses a minimum of three academic years of full-time graduate study;
  - I) The program has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:
    - i) 30 semester hours taken on a full-time or part-time basis at the institution, accumulated within 24 months; or
    - ii) A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.
- 2) The applicant's program shall include the 7 core content areas pursuant to Section 10(3)(B) of the Act as follows:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- A) Scientific and professional ethics in psychology, which include the standards set forth in Section 1400.80(k) and (l);
  - B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
  - C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;
  - D) Social basis of behavior such as social psychology, group processes, organizational and systems theory;
  - E) Individual differences that include instruction in theories of normal and abnormal personality functioning;
  - F) Assessment that include instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;
  - G) Treatment modalities that include instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.
- c) In accordance with Section 10(5) of the Act, the individual shall be a graduate of a doctoral psychology program or a graduate of a doctoral program that is psychological in nature; complete a course in each of the 7 core content areas listed in Section 10(3)(b) of the Act; complete a practicum in accordance with Section 1400.30(a) and (b); complete an internship or equivalent supervised clinical experience in accordance with Section 1400.30(a) and (c); and complete two years of supervised clinical psychology experience in accordance with Section 1400.30(a) and (d), one of which must be postdoctoral.
- 1) The applicant's doctoral program shall meet the following requirements:
    - A) The program is accredited by the Association of State and

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

Provincial Psychology Boards or Council for the National Register of Health Service Providers in Psychology and is not a designated clinical or counseling psychology program; or

- B) The program is psychological in nature as determined by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) upon the recommendation of the Clinical Psychologists Licensing and Disciplinary Board (the Board). In determining what program is psychological in nature, the Board shall consider:
- i) A program that is from a regionally accredited institution of higher education;
  - ii) A program, wherever administratively housed, that is clearly identified and labeled as offering psychology programs. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
  - iii) A program that is an organizational entity within the institution;
  - iv) A program that has an integrated, organized sequence of study;
  - v) A program that has an identifiable core psychology faculty on-site and a psychologist responsible for the program;
  - vi) A program that has an identifiable body of students who are matriculated in that program for a degree;
  - vii) A program that encompasses a minimum of three academic years of full-time graduate study;
  - viii) A program that has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

30 semester hours taken on a full-time or part-time basis at the institution accumulated within 24 months; or

A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.

- 2) The applicant shall complete a course in each of the 7 core content areas pursuant to Section 10(3)(b) of the Act as follows:
  - A) Scientific and professional ethics in psychology set forth in Section 1400.80(k) and (l);
  - B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
  - C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;
  - D) Social basis of behavior such as social psychology, group processes, organizational and systems theory;
  - E) Individual differences that include instruction in theories of normal and abnormal personality functioning;
  - F) Assessment that includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- G) Treatment modalities that include instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.
- d) For the purposes of this Section, course shall be defined as an integrated, organized didactic sequence of study that encompasses a minimum of one school term. No independent study courses may be used to satisfy the 7 core content areas set forth in Section 10 of the Act and subsections (b)(2) and (c)(2) of this Section.
- e) Remediation of Deficiencies
  - 1) Individuals who are deficient in any of the 7 core content areas may complete any one or all of these courses in a clinical, school or counseling psychological program accredited by the American Psychological Association, approved by the Council for the National Register of Health Service Providers in Psychology or a program approved in accordance with subsection (b).
  - 2) Individuals who are deficient in the practicum, internship or equivalent supervised clinical experience, or clinical experience requirements may obtain this experience in accordance with the standards set forth in Section 1400.30.
  - 3) The applicant will be required to submit proof to the Division that he or she has completed such a course and/or the experience. Documentation shall include, but not be limited to, curriculum/course syllabus, transcripts, practicum, and program materials; internship handbook/brochures and course materials; and internship training plan.
  - 4) The deficiencies may be completed at any time.

**Section 1400.30 Experience Defined**

The following sets forth standards for practicums, internships or equivalent supervised experience and the 2 years of supervised experience required for licensure as a clinical psychologist pursuant to Section 10 of the Act and Section 1400.20:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- a) Practicums, internships or equivalent supervised experience and the 2 years of supervised experience:
- 1) Shall be experience obtained after enrollment in a doctoral psychology program.
  - 2) Shall involve the practice of clinical psychology as defined in Section 2(5) of the Act. Illustrative tasks are: assessing, diagnosing and treating individuals with mental, emotional, behavioral or nervous disorders or conditions, or individuals with developmental disabilities.
  - 3) Shall not be limited to repetitious and routine tasks that, although involving psychological activities, are at the pre-professional level. Tasks illustrative of pre-professional experience are: administering and scoring structured tests; conducting standardized interviews; collecting data; academic guidance counseling; and assisting in a laboratory or teaching situation.
  - 4) Shall not be supervised experience in which the supervisor receives monetary payment or other considerations from the supervisee or in which the supervisor is hired by or otherwise employed by the supervisee.
- b) Practicum. In addition to the requirements set forth in subsection (a), the applicant's practicum (externship or clerkship) shall:
- 1) Be a part of the coursework in the doctoral program or be an equivalent 400 hours of coursework or training completed with a grade of satisfactory or better in a new area of competence approved by the Board prior to initiating the training.
  - 2) Involve the applicant in direct clinical psychology services to the client.
  - 3) Provide for personal supervision by a licensed clinical psychologist, licensed psychologist who is engaged in the practice of clinical psychology or by a person possessing the educational and experience qualifications necessary for licensure under the Act. However, failure of the licensing examination disqualifies one as a supervisor.
  - 4) Be performed pursuant to the order, control and full professional

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

responsibility of the supervisor who shall meet with the applicant face-to-face for a minimum of 40 hours.

- 5) Be a minimum of 400 hours in duration. This 400 hours does not have to take place in a single setting.
  - 6) Not count toward the two years of supervised experience required for licensure.
  - 7) Clearly delineate between practicum, internship and supervised work experience, using identifiable dates at the time of application.
- c) Internship. To meet the requirements of internship in accordance with Section 1400.20 or equivalent supervised clinical experience in an organized health care setting pursuant to Section 10(5) of the Act and Section 1400.20(c), the internship or clinical experience shall, in addition to the requirements set forth in subsection (a):
- 1) Be an organized pre-planned training program (in contrast to supervised experience or on the job training) designed to provide the applicant with a pre-planned, programmed sequence of training experiences which includes documented goals and objectives. The primary focus and purpose is assuring breadth and quality of training.
  - 2) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant. There must also have been at least two additional hours per week in learning activities such as case conferences, including cases in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person, including discussion; group supervision; and additional individual supervision.
  - 3) Involve the applicant in direct clinical psychology services to the client (Section 2 of the Act) as a part of the training experience.
  - 4) Be under the individual and personal supervision of a licensed clinical psychologist or a licensed psychologist who is engaged in clinical psychology whose license is active and in good standing (i.e., no

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

disciplinary action in accordance with Section 15 of the Act).

- 5) Be performed pursuant to the order, control and full professional responsibility of the supervisor.
  - 6) Include a minimum of 1750 hours completed within 24 months. The 1750 hours may not be completed in less than 50 weeks regardless of the number of hours worked per week.
    - A) Full-time experience shall be at least 35 hours per week and shall be obtained in a single setting for a minimum of 6 months.
    - B) Part-time experience will only be counted if it is 18 hours or more per week for a minimum of 9 months and is in a single setting.
  - 7) Be post-practicum (post-clerkship or post-externship) level.
  - 8) The experience must be evaluated by the supervisor as satisfactory or better.
  - 9) If experience takes place in a work setting, there should be a distinction between the regular work duties of the applicant and the internship or equivalent clinical experience.
  - 10) May include both paid and unpaid experience obtained by the applicant.
- d) Clinical Experience. To meet the experience requirements of Section 10 of the Act, the experience shall, in addition to the requirements set forth in subsection (a):
- 1) Contain/include clinical psychology experience, at least one year of which must be post-doctoral. Practicum experience may not be counted toward fulfilling the 2 years of supervised experience.
    - A) A year of experience is defined as 1750 hours obtained in not less than 50 weeks and completed within a 36 month period.
    - B) Full-time work experience must be obtained in a single setting for a minimum of 6 months with at least 35 hours per week.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- C) Part-time experience will only be counted if it is 18 hours or more a week for a minimum of 9 months and is in a single setting.
  - D) Post-doctoral experience may begin upon completion of degree requirements for the doctoral degree, if verification of the date of completion of the degree requirement, when different from the date of graduation, is certified to the Division by the appropriate administrative official of the applicant's educational institution.
- 2) Be personally and individually supervised by a licensed clinical psychologist or a licensed psychologist who is engaged in the practice of clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act). The experience must be performed pursuant to the order, control and full professional responsibility of the supervisor.
  - 3) Be evaluated by the supervisor as satisfactory or better.
  - 4) Be obtained prior to the date of the examination. Applicants completing the required experience after the examination date will be considered for the next examination. All supervised experience completed prior to the application date shall be listed on the application in order to be considered.
  - 5) May include both paid and unpaid experience obtained by the applicant.
  - 6) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant.

**Section 1400.40 Application for Examination**

- a) An applicant shall file an application on forms supplied by the Division at least 120 days prior to an examination date. The application shall include:
  - 1) Certification of receipt of a doctoral degree as defined in Section 1400.20 and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 2) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.30. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30; and
- 3) The required fee set forth in Section 1400.75.
- b) In addition to the documents listed in subsection (a), candidates applying under Section 1400.20(b) and (c) shall submit documentation as required in Section 1400.20 (b) and (c) of the practicum and internship training.
- c) Applicants who are graduates from educational institutions outside the United States shall provide, in addition to those requirements listed in subsections (a) and (b), a certified translation of all documents submitted in any language other than English.
- d) In addition, the applicant shall cause to be sent directly to the Division certification of the date of completion of degree requirements, if different from the date of the awarding of the degree, by the certifying educational administration official, for computation of post-doctoral experience as provided for in Section 1400.30.
- e) Each application shall be reviewed on an individual basis by the Board in accordance with this Section.
- f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking a license will be requested to:
  - 1) Provide such information as may be necessary; and/or
  - 2) Appear for oral interviews before the Board.
- g) Upon recommendation by the Board and approval by the Division, the applicant

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

shall be notified of eligibility to sit for the examination or notified of the reasons for denial of the application.

**Section 1400.50 Examination**

- a) The required examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB) Examination for Professional Practice in Psychology.
- b) The minimum passing grade on the examination shall be the passing score set by the testing entity.
- c) The Division will accept proof of completion of the EPPP taken in another jurisdiction with the passing score set by the testing entity. Such proof must be forwarded directly to the Division from the testing service.
- d) The Division will accept, in lieu of passage of the examination specified in subsection (a), passage of the examination in clinical or counseling psychology of the American Board of Professional Psychology Inc.

**Section 1400.60 Endorsement**

- a) Any person who is currently licensed in another state or territory of the United States or a foreign country desiring to obtain a license as a licensed clinical psychologist pursuant to Section 11 of the Act shall file an application with the Division, on forms provided by the Division, that shall include:
  - 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:
    - A) The date of issuance of the applicant's license;
    - B) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and
    - C) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 2) Certification of graduation from a psychology program, as defined in Section 1400.20, and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;
  - 3) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.30. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30; and
  - 4) The required fee specified in Section 1400.75.
- b) An individual applying under subsection (a) may satisfy the requirements of subsections (a)(2) and (a)(3) by submitting proof that the licensing standards of his or her original jurisdiction were substantially equivalent to those of Illinois as of the date of his or her licensure in that jurisdiction. The Division, upon recommendations of the Board, has determined that the following shall be proof of substantial equivalence:
- 1) A valid Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards if a doctoral degree was conferred in the areas of clinical or counseling psychology; or
  - 2) For an individual who is currently credentialed by the National Register of Health Service Providers in Psychology, evidence of having an active licensing and practicing psychology independently at the doctoral level for a minimum of five years.
- c) Any person currently licensed in the United States or Canada desiring to obtain a license as a licensed clinical psychologist under the provisions for senior psychologists who have been licensed for at least 20 years pursuant to Section 11 of the Act shall file an application with the Division that shall include:
- 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- A) The date of issuance of the applicant's license and the level of licensure;
  - B) The basis of licensure and a description of the examination by which the applicant was licensed, if any;
  - C) If multiple levels of practice are licensed, that the license is at the highest level of practice in that jurisdiction; and
  - D) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;
- 2) Proof that the applicant has been actively and lawfully licensed to practice clinical psychology in another state or Canada for at least 20 consecutive years and that his or her licenses have never been disciplined by another state or Canada. An applicant whose license has been disciplined by another jurisdiction shall not be eligible nor shall the applicant be issued a license pursuant to this subsection (c); however, the applicant's credentials may be reviewed pursuant to subsection (a) or by examination;
  - 3) Verification of a doctoral degree in psychology from a college, university or school that was regionally accredited in the jurisdiction in which it is located by a body recognized by the Council on Postsecondary Accreditation at the time the degree was granted and an official transcript; and
  - 4) The required fee specified in Section 1400.75.
- d) Each application shall be reviewed on an individual basis by the Board in accordance with this Section. The Division or Board may request from the applicant a copy of the Act and Rules from the state of original licensure that were in effect at the time of licensure.
  - e) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board, because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking a license will be requested to:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 1) Provide such information as may be necessary; and/or
  - 2) Appear for oral interviews before the Board.
- f) Upon recommendation of the Board and approval by the Division, the applicant shall be notified of eligibility to sit for the examination, issued a license by endorsement or notified of the reasons for denial of the application.

**Section 1400.65 Renewals**

- a) Every license issued under the Act shall expire on September 30 of each even numbered year. The holder of a license may renew the license during the month preceding the expiration date by paying the required fee.
- b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew a license.

**Section 1400.70 Restoration**

- a) A person seeking restoration of a license that has lapsed or been on inactive status for less than 5 years shall have it restored upon payment of the required fees specified in Section 1400.75.
- b) A person seeking restoration of his/her license that has lapsed or been on inactive status for more than five years shall file a completed application, on forms supplied by the Division, with the required fee set forth in Section 1400.75. The applicant shall also be required to either:
  - 1) Submit certification of current licensure from another jurisdiction and verification of active practice in that jurisdiction; or
  - 2) Submit proof of one year of study completed within the past 5 years in an approved educational program in accordance with Section 1400.20; or
  - 3) Submit verification of six months of full-time supervised experience, as described in Section 1400.30(a); or
  - 4) Pass the examination as set forth in Section 1400.50.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- c) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division, because of discrepancies or conflicts in information, the need for further clarification, and/or missing information, the person seeking restoration of his license will be requested to:
- 1) provide such information as may be necessary; and/or
  - 2) explain the relevance or sufficiency during an oral interview; or
  - 3) appear for additional oral interviews before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Board and approval of the Director, an applicant shall have his license restored.

**Section 1400.75 Fees**

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
- 1) The fee for application for a license by examination or acceptance of examination as a clinical psychologist is \$50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
  - 2) The application fee for a license as a clinical psychologist certified or licensed under the laws of another jurisdiction is \$100.
  - 3) The application fee for a license as an association or partnership to practice clinical psychology is \$50.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 4) The fee for application as a continuing education sponsor is \$500. State colleges, State universities and State agencies are exempt from payment of this fee.
- b) Renewal Fees
- 1) The fee for the renewal of a license shall be calculated at the rate of \$80 per year.
  - 2) The fee for renewal as a continuing education sponsor is \$250 for the renewal period.
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees.
  - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license which has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
  - 3) The fee for a certification of a licensee's record for any purpose is \$20.
  - 4) The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20.
  - 5) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.
  - 6) The fee for a roster of persons licensed as clinical psychologists in this State shall be the actual cost of producing such a roster.

**Section 1400.80 Unethical, Unauthorized, or Unprofessional Conduct**

The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 15(7) of the Act, which is interpreted to include, but is

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

not limited to, the following acts or practices:

- a) Practicing or offering to practice beyond one's competency (for example, providing services or using techniques for which one is not qualified by education, training and experience);
- b) Revealing facts, data or information relating to a client or examinee, except as allowed under Section 5 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]. The release of information "with the expressed consent of the client" as provided for in Section 6 of the Act is interpreted to mean that the psychologist, prior to the release of the information, obtained written consent and made certain that the client understood the possible uses or distributions of the information. Case history material may be used for teaching or research purposes or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the clients or examinees involved;
- c) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her treatments or remedies, or those of another practitioner;
- d) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;
- e) Refusing to divulge to the Division techniques or procedures used in his/her professional activities upon request;
- f) Directly or indirectly giving to or receiving from any person, firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered;
- g) Impersonating another person holding a psychology license or allowing another person to use his/her license;
- h) The commission of any dishonest, corrupt or fraudulent act that is substantially related to the functions or duties of a psychologist providing services or supervising psychological services;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- i) The commission of any act of sexual misconduct, sexual abuse or sexual relations with one's client, patient, student supervisee or ex-client within 24 months after termination of treatment;
- j) Submission of fraudulent claims for services to any health insurance company or health service plan or third party payor;
- k) Pursuant to Section 15(7) of the Act, the Division hereby incorporates by reference the "Ethical Principles of Psychologists and Code of Conduct". American Psychological Association, 750 First Street, NE, Washington D.C. 20002, American Psychologist, June 1, 2010, with no later amendments or editions.

**Section 1400.85 Continuing Education**

- a) Continuing Education (CE) Hours Requirements
  - 1) Beginning with the September 30, 2014 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 24 hours of continuing education. At least 3 of the 24 hours must include content related to the ethical practice of Clinical Psychology.
  - 2) A renewal period is the 24 months proceeding September 30 of each even numbered year.
  - 3) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.
  - 4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
  - 5) Clinical psychologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirement set forth in this Section.
  - 6) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- b) Approved Continuing Education

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3) and (4).
  - 2) A maximum of 18 CE credits per renewal period may be earned for completion of distance-learning courses or programs that are offered by an approved sponsor who meets the requirements set forth in subsection (c). Examples of distance-learning courses include, but are not limited to, first class mail, magazines, email, message boards, websites and webinars. Each distance-learning CE course shall include an examination.
  - 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of graduate level psychology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded. Courses that are audited shall not satisfy the requirements of this Section.
  - 4) CE credit may be earned for verified teaching in the field of psychology in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per prerenewal period.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:
    - A) American Psychological Association or its affiliates
    - B) Council for the National Register of Health Service Providers in Psychology

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- C) Association of State and Provincial Psychology Boards or Council for the National Register of Health Service Providers in Psychology
  - D) American Medical Association or its affiliates
  - E) Illinois Psychological Association or its affiliates
  - F) Any regionally accredited school, college or university, or any State agency
  - G) Any other person, firm, or association that has been preapproved and authorized by the Division pursuant to subsection (c)(2) of this Section to coordinate and present continuing education courses and programs.
- 2) An entity seeking approval as a CE sponsor pursuant to subsection (c)(1)(G) shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1400.75. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:
- A) Certification:
    - i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) and all other criteria in this Section;
    - ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);
    - iii) That, upon request by the Division, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

statute and this Part and that this information is necessary to ensure compliance;

- B) A copy of a sample program with faculty, course materials and syllabi.
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of clinical psychology;
  - B) Foster the enhancement of general or specialized clinical psychology practice and values;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

- 6) All programs given by approved sponsors shall be open to all licensed clinical psychologists and not be limited to members of a single organization or group.
- 7) To maintain approval as a sponsor pursuant to subsection (c)(2), each shall submit to the Division by September 30 of each even numbered year a renewal application, the fee set forth in Section 1400.75 and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
  - A) The name, address and license number of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor or person responsible for the CE program.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.

- 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
    - 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in this Section.
    - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance for the previous 8 years.
    - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
  - e) Continuing Education Earned in Other Jurisdictions
    - 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days after expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
    - 2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1400.75.
- g) Waiver of CE Requirements
  - 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division finds, upon the written recommendation of the Board and from the affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.
  - 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
    - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
    - B) An incapacitating illness documented by a statement from a currently licensed physician, advanced practice nurse or physician assistant or an incapacitating mental illness documented by a statement by a currently licensed clinical psychologist or Board-certified psychiatrist;
    - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
    - D) Any other similar extenuating circumstances.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED REPEALER

- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Division.

**Section 1400.90 Granting Variances**

- a) The Director may grant variances from this Part in individual cases where he/she finds that:
  - 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Clinical Psychologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1400
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1400.10	New Section
1400.20	New Section
1400.30	New Section
1400.40	New Section
1400.50	New Section
1400.60	New Section
1400.70	New Section
1400.100	New Section
1400.110	New Section
1400.120	New Section
1400.130	New Section
1400.140	New Section
1400.200	New Section
1400.210	New Section
1400.220	New Section
1400.230	New Section
1400.240	New Section
1400.250	New Section
1400.260	New Section
1400.EXHIBIT A	New Section
- 4) Statutory Authority: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the provisions of PA 98-668. It creates a new license for prescribing psychologists, specifies educational requirements for licensure as a prescribing psychologist, addresses the delegation of prescriptive authority by a physician through collaborative agreements and adds references to prescribing psychologists throughout the Act as appropriate. It also makes several technical/non-substantive updates.

First, a separate rulemaking repeals all of the original Part 1400. This rulemaking replaces it with a "New" Part 1400 that incorporates the new prescribing psychologist

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

rules by creating Subparts. Subpart A is for general provisions applicable to both clinical psychologist and prescribing psychologist licenses, Subpart B is for clinical psychologists, Subpart C is for prescribing psychologists and Exhibit A is a sample collaborative agreement for prescribing psychologists.

Section 1400.10 creates a new Definitions section not in the original Part that includes terms defined in the Act.

Section 1400.20 (Renewals) clarifies that both clinical psychologist and prescribing psychologist licenses expire on September 30 of each even number year.

Section 1400.30 (Restoration) adds requirements for prescribing psychologist licenses, by mirroring the current requirements for clinical psychologist licenses.

Section 1400.40 (Fees) incorporates fees for prescribing psychologist license applications, renewals, restoration, and for optional approval of a clinical rotation program.

Section 1400.60 (Continuing Education) includes the additional 24 hours of pharmacology continuing education a prescribing psychologist must complete for renewal of the license, pursuant to Section 4.2(c)(2) of the Act. This Section is also amended to standardize the requirements for waiver of continuing education requirements with the waiver requirements specified in the Department's continuing education rules for other professions.

Section 1400.200 (Licensure Qualifications) is a new section not in the original Part 1400 that implements the prescribing psychologist licensure requirements under Section 4.2(a). Language from Section 4.2(a) is incorporated into this Section. Section 4.2(a)(3) of the Act requires the Department to determine a National Certifying Exam by rule; this Section specifies that the examination is the Psychopharmacology Examination for Psychologists.

Section 1400.210 (Application for a License on the Basis of Examination) for prescribing psychologists is another new section not in the original Part 1400 that is intended to mirror Section 120 (Application for Examination) for clinical psychologists. This Section specifies exactly what must be submitted to the Department in order to apply for a prescribing psychologist license.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

Section 1400.220 (Clinical Rotations) is another new section not in the original Part 1400 that implements the clinical rotation training requirements of Section 4.2(a)(C) of the Act, which requires the Department to set certain standards for approval of these clinical rotation programs by rule. This Section also states that a program may apply for program pre-approval in accordance with the following Section.

Section 1400.230 (Clinical Rotation Program Approval) allows a clinical rotation program to apply for approval of its program by the Department. This Section specifies exactly what must be submitted to the Department in order to apply for program approval. It also addresses the timeline during which a program must cure any deficiencies in its application for approval. Further, it identifies reasons that the Department may withdraw approval of a program, and allows for a hearing at the discretion of the Department. Finally, this Section clarifies that an approved program that seeks to modify its program may seek re-approval by submitting a new application and fee.

Section 1400.240 (Written Collaborative Agreements) is another new section not in the original Part 1400 that implements the collaborative agreement requirements under Section 4.3 of the Act. It also requires that all prescriptions signed by a prescribing psychologist shall indicate the name of the collaborating physician. The language in this requirement is identical to the language requiring that all prescriptions signed by an advance practice nurse shall indicate the name of the collaborating physician, under the Nurse Practice Act (68 Ill. Adm. Code 1300.430(e)).

Section 1400.260 (Endorsement for Prescribing Psychologists) is another new section not in the original Part 1400 that is created to implement the endorsement requirements of Section 4.5 of the Act.

EXHIBIT A (Sample Written Collaborative Agreement) is another new section not in the original Part 1400 that is created to provide an example collaborative agreement for prescribing psychologists and collaborating physicians. The language in this EXHIBIT A is similar to that of EXHIBIT A (Sample Written Collaborative Agreement) in the rules for administration of the Nurse Practice Act (68 Ill. Adm. Code 1300).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rule currently in effect? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes, the old Part is being repealed.
- 11) Statement of Statewide Policy Objective (if applicable): This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice.

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield IL 62786

217/785-0813  
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Licensed clinical psychologists will be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: Clinical psychology skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1400

## CLINICAL PSYCHOLOGIST LICENSING ACT

## SUBPART A: GENERAL

## Section

1400.10	Definitions
1400.20	Renewals
1400.30	Restoration
1400.40	Fees
1400.50	Unethical, Unauthorized, or Unprofessional Conduct
1400.60	Continuing Education
1400.70	Granting Variances

## SUBPART B: CLINICAL PSYCHOLOGIST

1400.100	Licensure Qualifications
1400.110	Experience Defined
1400.120	Application for Examination
1400.130	Examination
1400.140	Endorsement for Clinical Psychologists

## SUBPART C: PRESCRIBING PSYCHOLOGIST

1400.200	Licensure Qualifications
1400.210	Application for a License on the Basis of Examination
1400.220	Clinical Rotations
1400.230	Clinical Rotation Program Approval
1400.240	Written Collaborative Agreements
1400.250	Prescribing Authority
1400.260	Endorsement for Prescribing Psychologists

1400.EXHIBIT A Sample Written Collaborative Agreement

AUTHORITY: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 935, effective January 15, 1981; codified at 5 Ill. Reg. 11057; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 400 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1400 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2972; emergency amendment at 13 Ill. Reg. 2519, effective February 8, 1989, for a maximum of 150 days; emergency expired July 8, 1989; amended at 14 Ill. Reg. 4515, effective March 12, 1990; amended by adding Section 1400.20(b)(10) and (c)(2)(H) and Section 1400.30(a)(4), (b)(4) and (c)(5) at 14 Ill. Reg. 12735, effective July 30, 1990; amended at 18 Ill. Reg. 11191, effective June 30, 1994; expedited correction at 19 Ill. Reg. 989, effective June 30, 1994; amended at 20 Ill. Reg. 7868, effective May 30, 1996; emergency amendment at 21 Ill. Reg. 9217, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15240, effective November 17, 1997; amended at 24 Ill. Reg. 11658, effective July 24, 2000; amended at 28 Ill. Reg. 358, effective December 19, 2003; amended at 36 Ill. Reg. 15468, effective November 2, 2012; former Part repealed at 41 Ill. Reg. \_\_\_\_\_ and new Part adopted at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 1400.10 Definitions**

"Act" means Clinical Psychologist Licensing Act [225 ILCS 15].

*"Board" means the Clinical Psychologists Licensing and Disciplinary Board appointed by the Secretary.*

*"Collaborating physician" means a physician licensed to practice medicine in all of its branches in Illinois who generally prescribes medications for the treatment of mental health disease or illness to his or her patients in the normal course of his or her clinical medical practice.*

*"Department" means the Department of Financial and Professional Regulation. (Section 2 of the Act)*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation with the authority delegated by the Secretary.

*"Secretary" means the Secretary of the Department of Financial and Professional Regulation. (Section 2 of the Act)*

**Section 1400.20 Renewals**

- a) Every clinical psychologist and prescribing psychologist license issued under the Act shall expire on September 30 of each even-numbered year. The holder of a license may renew the license during the month preceding the expiration date by paying the required fee.
- b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew a license.

**Section 1400.30 Restoration**

- a) A person seeking restoration of a clinical psychologist or prescribing psychologist license that has lapsed or been on inactive status for less than 5 years shall have it restored upon payment of the required fees specified in Section 1400.40. Individuals restoring will be required to submit proof of having met the continuing education requirements of Section 1400.60. Continuing education must be completed during the 24 months preceding application for restoration.
- b) A person seeking restoration of his/her clinical psychologist license that has lapsed or been on inactive status for more than 5 years shall file a completed application, on forms supplied by the Division, with the required fee set forth in Section 1400.40. The applicant shall also be required to:
  - 1) Submit certification of current licensure from another jurisdiction and verification of active practice in that jurisdiction;
  - 2) Submit proof of one year of study completed within the past 5 years in an approved educational program in accordance with Section 1400.100;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 3) Submit verification of 6 months of full-time supervised experience, as described in Section 1400.110(a); or
  - 4) Pass the examination set forth in Section 1400.130.
- c) A person seeking restoration of his/her prescribing psychologist license that has lapsed or been on inactive status for more than 5 years shall file a completed application, on forms supplied by the Division, with the required fee set forth in Section 1400.40. The applicant shall also be required to:
- 1) Submit certification of current licensure from another jurisdiction and verification of active practice in that jurisdiction;
  - 2) Submit proof of one year of study completed within the past 5 years in an approved educational program in accordance with Section 1400.200(b); or
  - 3) Pass the examination set forth in Section 1400.200(c).
- d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the Division, because of discrepancies or conflicts in information, the need for further clarification, and/or missing information, the person seeking restoration of his license will be requested:
- 1) to provide such information as may be necessary; and/or
  - 2) to:
    - A) explain the relevance or sufficiency during an oral interview; or
    - B) appear for additional oral interviews before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act.
- e) Upon the recommendation of the Board and approval of the Director, an applicant shall have his/her license restored.

**Section 1400.40 Fees**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
  - 1) The fee for application for a license by examination or acceptance of examination as a clinical psychologist is \$50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
  - 2) The fee for application for a license by examination or acceptance of examination as a prescribing psychologist is \$150.
  - 3) The application fee for a license as a clinical psychologist or a prescribing psychologist certified or licensed under the laws of another jurisdiction is \$100.
  - 4) The application fee for a license as an association or partnership to practice clinical psychology is \$50.
  - 5) The fee for application as a continuing education sponsor is \$500. State colleges, State universities and State agencies are exempt from payment of this fee.
  - 6) The fee for application as an approved clinical rotation program for prescribing psychologists is \$1,000.
- b) Renewal Fees
  - 1) The fee for the renewal of a clinical psychologist license shall be calculated at the rate of \$80 per year.
  - 2) The fee for the renewal of a prescribing psychologist license shall be calculated at the rate of \$150 per year.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 3) The fee for renewal as a continuing education sponsor is \$250 for the renewal period.
- c) General Fees
- 1) The fee for the restoration of a clinical psychologist or prescribing psychologist license other than from inactive status is \$50 plus payment of all lapsed renewal fees.
  - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
  - 3) The fee for a certification of a licensee's record for any purpose is \$20.
  - 4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
  - 5) The fee for a roster of persons licensed as clinical psychologists or prescribing psychologists in this State shall be the actual cost of producing such a roster.

**Section 1400.50 Unethical, Unauthorized, or Unprofessional Conduct**

The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of *unethical, unauthorized or unprofessional conduct* (Section 15(7) of the Act), which is interpreted to include, but is not limited to, the following acts or practices:

- a) Practicing or offering to practice beyond one's competency (for example, providing services or using techniques for which one is not qualified by education, training and experience);
- b) Revealing facts, data or information relating to a client or examinee, except as allowed under Section 5 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]. The release of

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

information with the expressed consent of the client as provided for in Section 6 of the Act is interpreted to mean that the psychologist, prior to the release of the information, obtained written consent and made certain that the client understood the possible uses or distributions of the information. Case history material may be used for teaching or research purposes or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the clients or examinees involved;

- c) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her treatments or remedies, or those of another practitioner;
- d) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;
- e) Refusing to divulge to the Division, upon request, techniques or procedures used in his/her professional activities;
- f) Directly or indirectly giving to or receiving from any person, firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered;
- g) Impersonating another person holding a psychology license or allowing another person to use his/her license;
- h) The commission of any dishonest, corrupt or fraudulent act that is substantially related to the functions or duties of a psychologist providing services or supervising psychological services;
- i) The commission of any act of sexual misconduct, sexual abuse or sexual relations with one's client, patient, student supervisee or ex-client within 24 months after termination of treatment;
- j) Submission of fraudulent claims for services to any health insurance company or health service plan or third party payor;
- k) Pursuant to Section 15(7) of the Act, the Division hereby incorporates by reference the "Ethical Principles of Psychologists and Code of Conduct".

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

American Psychological Association, 750 First Street NE, Washington DC 20002,  
American Psychologist, June 1, 2010, with no later amendments or editions.

**Section 1400.60 Continuing Education**

- a) Continuing Education (CE) Hours Requirements
  - 1) In order to renew a license, a clinical psychologist shall be required to complete 24 hours of continuing education. At least 3 of the 24 hours must include content related to the ethical practice of clinical psychology.
  - 2) In order to renew a prescribing psychologist license, a prescribing psychologist shall also be required to complete 20 hours of continuing education on the subject of pharmacology. This requirement shall be in addition to the 24 hours of CE required to renew a clinical psychologist license.
  - 3) A prerenewal period is the 24 months proceeding September 30 of each even-numbered year.
  - 4) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.
  - 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
  - 6) Clinical psychologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirement set forth in this Section.
  - 7) CE credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- b) Approved Continuing Education
  - 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at, or participation in, a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities described in this subsection (b).

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 2) A maximum of 18 CE credits per renewal period may be earned for completion of distance-learning courses or programs that are offered by an approved sponsor who meets the requirements set forth in subsection (c). Examples of distance-learning courses include, but are not limited to, first class mail, magazines, email, message boards, websites and webinars. Each distance-learning CE course shall include an examination.
  - 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of graduate level psychology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded. Courses that are audited shall not satisfy the requirements of this Section.
  - 4) CE credit may be earned for verified teaching in the field of psychology in an accredited college, university or graduate school and/or as an instructor of CE programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per prerenewal period.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:
    - A) American Psychological Association or its affiliates;
    - B) National Register of Health Service Psychologists;
    - C) Association of State and Provincial Psychology Boards or the National Register of Health Service Psychologists;
    - D) American Medical Association or its affiliates;
    - E) Illinois Psychological Association or its affiliates;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- F) Any regionally accredited school, college or university, or any State agency;
  - G) Any other person, firm or association that has been preapproved and authorized by the Division pursuant to subsection (c)(2) to coordinate and present CE courses and programs.
- 2) An entity seeking approval as a CE sponsor pursuant to subsection (c)(1)(G) shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1400.40. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:
- A) Certification:
    - i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) and all other criteria in this Section;
    - ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(8);
    - iii) That, upon request by the Division, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
  - B) A copy of a sample program with faculty, course materials and syllabi.
- 3) All programs shall:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of clinical psychology;
  - B) Foster the enhancement of general or specialized clinical psychology practice and values;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
  - 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
  - 6) All programs given by approved sponsors shall be open to all licensed clinical psychologists and not be limited to members of a single organization or group.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 7) To maintain approval as a sponsor pursuant to subsection (c)(2), each sponsor shall submit to the Division by September 30 of each even-numbered year a renewal application, the fee set forth in Section 1400.40 and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
  - A) The name, address and license number of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor or person responsible for the CE program.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
- 10) The sponsor shall be responsible for assuring that no renewal applicant receives CE credit for time not actually spent attending the program.
- 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until the Division receives assurances of compliance with this Section.
- 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in this Section.
  - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance for the previous 8 years.
  - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days after expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3).
  - 2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3).
- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the fee required by Section 1400.40.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- g) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee, a statement setting forth the facts concerning noncompliance, a request for waiver of the CE requirements on the basis of these facts and, if desired, a request for an interview before the Board. A request for waiver shall be made prior to the renewal date. If the Division finds, upon the written recommendation of the Board and from the affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.
  - 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
    - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
    - B) A temporary incapacitating illness documented by a statement from a currently licensed physician. A second, consecutive request for a CE waiver pursuant to this subsection (g)(2)(B) shall be prima facie proof that the renewal applicant has a physical or mental illness, including, but not limited to, deterioration through the aging process or loss of abilities and skills that results in the inability to practice clinical psychology with reasonable judgment, skill or safety, in violation of Section 15(15) of the Act and shall be grounds for denial of the renewal or other discipline;
    - C) Temporary undue hardship (e.g., prolonged hospitalization, being disabled and unable to practice clinical psychology on a temporary basis).
  - 3) If an interview is requested at the time the request for waiver is filed with the Division, the renewal applicant shall be given at least 20 days written

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

notice of the date, time and place of the interview by certified mail, return receipt requested.

- 4) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Division.

**Section 1400.70 Granting Variances**

- a) The Director may grant variances from this Part in individual cases when he/she finds that:
  - 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

## SUBPART B: CLINICAL PSYCHOLOGIST

**Section 1400.100 Licensure Qualifications**

An individual applying for licensure as a clinical psychologist pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15] (the Act) shall meet the following educational/experience requirements of subsection (a), (b) or (c).

- a) In accordance with Section 10(3)(a) of the Act, the individual shall be *a graduate of a doctoral program in clinical, school or counseling psychology accredited by the American Psychological Association or approved by the National Register of Health Service Psychologists and shall complete 2 years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.110(a) and (d), one of which shall be an internship and one of which shall be postdoctoral.* (Section 10(3)(a) of the Act)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- b) In accordance with Section 10(3)(b) of the Act, the individual *shall be a graduate of a doctoral program that is equivalent to a clinical, school or counseling psychology program and shall complete 2 years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.110(a) and (d), one of which shall be an internship and one of which shall be postdoctoral.*
- 1) In determining equivalent programs, the following minimum standards shall be met:
- A) The program is from a regionally accredited *university, college or school*;
  - B) The program constitutes the university, college or school's clinical, school or counseling psychology program as certified by the dean of the institution and includes a practicum as defined in Section 1400.110(b). (If there is an additional clinical, school or counseling program that exists under the clinical, school or counseling psychology name, the applicant shall apply under Section 10(5) of the Act and subsection (c) of this Section.);
  - C) The program, wherever administratively housed, must be clearly identified and labeled as a psychology program. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
  - D) The program is an organizational entity within the institution;
  - E) The program has an integrated, organized sequence of study;
  - F) The program has an identifiable core psychology faculty on site and a psychologist responsible for the program;
  - G) The program has an identifiable body of students who are matriculated in that program for a degree;
  - H) The program encompasses a minimum of 3 academic years of full-time graduate study;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- I) The program has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:
  - i) 30 semester hours taken on a full-time or part-time basis at the institution, accumulated within 24 months; or
  - ii) A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. The educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.
- 2) The applicant's program shall include the following 7 core content areas:
  - A) *Scientific and professional ethics in psychology*, which include the standards set forth in Section 1400.50(k);
  - B) *Biological basis of behavior* such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
  - C) *Cognitive-affective basis of behavior* such as learning, thinking, motivation, emotion;
  - D) *Social basis of behavior* such as social psychology, group processes, organizational and systems theory;
  - E) *Individual differences* that include instruction in theories of normal and abnormal personality functioning;
  - F) *Assessment* that includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

batteries for the diagnosis of mental abilities and personality functioning;

- G) *Treatment modalities* that include instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders. (Section 10(3)(b) of the Act)
- c) In accordance with Section 10(5) of the Act, the individual *shall be a graduate of a doctoral psychology program or a graduate of a doctoral program that is psychological in nature; complete a course in each of the 7 core content areas listed in subsection (b)(2); complete a practicum in accordance with Section 1400.110(a) and (b); complete an internship or equivalent supervised clinical experience in accordance with Section 1400.110(a) and (c); and complete 2 years of supervised clinical psychology experience in accordance with Section 1400.110(a) and (d), one of which must be postdoctoral.* (Section 10(3)(c) of the Act)
- 1) The applicant's doctoral program shall meet the following requirements:
- A) The program is accredited by the Association of State and Provincial Psychology Boards or the National Register of Health Service Psychologists and is not a designated clinical or counseling psychology program; or
- B) The program is psychological in nature as determined by the Division upon the recommendation of the Board. In determining what program is psychological in nature, the Board shall consider:
- i) A program that is from a regionally accredited institution of higher education;
- ii) A program, wherever administratively housed, that is clearly identified and labeled as offering psychology programs. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
- iii) A program that is an organizational entity within the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

institution;

- iv) A program that has an integrated, organized sequence of study;
  - v) A program that has an identifiable core psychology faculty on site and a psychologist responsible for the program;
  - vi) A program that has an identifiable body of students who are matriculated in that program for a degree;
  - vii) A program that encompasses a minimum of 3 academic years of full-time graduate study;
  - viii) A program that has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:
    - 30 semester hours taken on a full-time or part-time basis at the institution accumulated within 24 months; or
    - A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. The educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.
- 2) The applicant shall complete a course in each of the following 7 core content areas:
- A) *Scientific and professional ethics in psychology* set forth in Section

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

1400.50(k);

- B) *Biological basis of behavior* such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
  - C) *Cognitive-affective basis of behavior* such as learning, thinking, motivation, emotion;
  - D) *Social basis of behavior* such as social psychology, group processes, organizational and systems theory;
  - E) *Individual differences* that include instruction in theories of normal and abnormal personality functioning;
  - F) *Assessment* that includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;
  - G) *Treatment modalities* that include instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders. (Section 10(3)(b) of the Act)
- d) For the purposes of this Section, course shall be defined as an integrated, organized didactic sequence of study that encompasses a minimum of one school term. No independent study courses may be used to satisfy the 7 core content areas set forth in Section 10(3)(b) of the Act and subsections (b)(2) and (c)(2) of this Section.
- e) Remediation of Deficiencies
- 1) Individuals who are deficient in any of the 7 core content areas may complete any one or all of these courses in a clinical, school or counseling psychological program accredited by the American Psychological Association, approved by the National Register of Health Service Psychologists or a program approved in accordance with subsection (b).

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 2) Individuals who are deficient in the practicum, internship or equivalent supervised clinical experience, or clinical experience, requirements may obtain this experience in accordance with the standards set forth in Section 1400.110.
- 3) The applicant will be required to submit proof to the Division that he/she has completed such a course and/or the experience. Documentation shall include, but not be limited to, curriculum/course syllabus, transcripts, practicum and program materials; internship handbook/brochures and course materials; and internship training plan.
- 4) The deficiencies may be completed at any time.

**Section 1400.110 Experience Defined**

The following sets forth standards for practicums, internships or equivalent supervised experience and the 2 years of supervised experience required for licensure as a clinical psychologist pursuant to Section 10 of the Act and Section 1400.100 of this Part:

- a) Practicums, internships or equivalent supervised experience and the 2 years of supervised experience:
  - 1) Shall be experience obtained after enrollment in a doctoral psychology program.
  - 2) Shall involve the practice of clinical psychology as defined in Section 2(5) of the Act. Illustrative tasks are: assessing, diagnosing and treating individuals with mental, emotional, behavioral or nervous disorders or conditions, or individuals with developmental disabilities.
  - 3) Shall not be limited to repetitious and routine tasks that, although involving psychological activities, are at the pre-professional level. Tasks illustrative of pre-professional experience are: administering and scoring structured tests; conducting standardized interviews; collecting data; academic guidance counseling; and assisting in a laboratory or teaching situation.
  - 4) Shall not be supervised experience in which the supervisor receives monetary payment or other considerations from the supervisee or in which

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

the supervisor is hired by or otherwise employed by the supervisee.

- b) Practicum. In addition to the requirements set forth in subsection (a), the applicant's practicum (externship or clerkship) shall:
- 1) Be a part of the coursework in the doctoral program or be an equivalent 400 hours of coursework or training completed with a grade of satisfactory or better in a new area of competence approved by the Board prior to initiating the training.
  - 2) Involve the applicant in direct clinical psychology services to the client.
  - 3) Provide for personal supervision by a licensed clinical psychologist, licensed psychologist who is engaged in the practice of clinical psychology or a person possessing the educational and experience qualifications necessary for licensure under the Act. However, failure of the licensing examination disqualifies one as a supervisor.
  - 4) Be performed pursuant to the order, control and full professional responsibility of the supervisor, who shall meet with the applicant face-to-face for a minimum of 40 hours.
  - 5) Be a minimum of 400 hours in duration. This 400 hours does not have to take place in a single setting.
  - 6) Not count toward the 2 years of supervised experience required for licensure.
  - 7) Clearly delineate between practicum, internship and supervised work experience, using identifiable dates at the time of application.
- c) Internship. To meet the requirements of internship in accordance with Section 1400.100 or equivalent supervised clinical experience in an organized health care setting pursuant to Section 10(3)(c) of the Act and Section 1400.100(c) of this Part, the internship or clinical experience may include both paid and unpaid experience obtained by the applicant and shall, in addition to the requirements set forth in subsection (a):
- 1) Be an organized pre-planned training program (in contrast to supervised

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

experience or on the job training) designed to provide the applicant with a pre-planned, programmed sequence of training experiences that includes documented goals and objectives. The primary focus and purpose is assuring breadth and quality of training.

- 2) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant. There must also have been at least 2 additional hours per week in learning activities such as case conferences, including cases in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person, including discussion; group supervision; and additional individual supervision.
- 3) Involve the applicant in direct clinical psychology services to the client (defined in Section 2 of the Act) as a part of the training experience.
- 4) Be under the individual and personal supervision of a licensed clinical psychologist or a licensed psychologist who is engaged in clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act).
- 5) Be performed pursuant to the order, control and full professional responsibility of the supervisor.
- 6) Include a minimum of 1750 hours completed within 24 months. The 1750 hours may not be completed in less than 50 weeks regardless of the number of hours worked per week.
  - A) Full-time experience shall be at least 35 hours per week and shall be obtained in a single setting during a minimum of 6 months.
  - B) Part-time experience will only be counted if it is 18 hours or more per week during a minimum of 9 months and is in a single setting.
- 7) Be post-practicum (post-clerkship or post-externship) level.
- 8) Be evaluated by the supervisor as satisfactory or better.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 9) If experience takes place in a work setting, be distinct from the regular work duties of the applicant and the internship or equivalent clinical experience.
- d) Clinical Experience. To meet the experience requirements of Section 10 of the Act, the experience may include both paid and unpaid experience obtained by the applicant and shall, in addition to the requirements set forth in subsection (a):
- 1) Contain/include clinical psychology experience, at least one year of which must be post-doctoral. Practicum experience may not be counted toward fulfilling the 2 years of supervised experience.
    - A) A year of experience is defined as 1750 hours obtained in not less than 50 weeks and completed within a 36 month period.
    - B) Full-time work experience must be obtained in a single setting for a minimum of 6 months with at least 35 hours per week.
    - C) Part-time experience will only be counted if it is 18 hours or more a week during a minimum of 9 months and is in a single setting.
    - D) Post-doctoral experience may begin upon completion of degree requirements for the doctoral degree, if verification of the date of completion of the degree requirement, when different from the date of graduation, is certified to the Division by the appropriate administrative official of the applicant's educational institution.
  - 2) Be personally and individually supervised by a licensed clinical psychologist or a licensed psychologist who is engaged in the practice of clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act). The experience must be performed pursuant to the order, control and full professional responsibility of the supervisor.
  - 3) Be evaluated by the supervisor as satisfactory or better.
  - 4) Be obtained prior to the date of the examination. Applicants completing the required experience after the examination date will be considered for the next examination. All supervised experience completed prior to the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

application date must be listed on the application in order to be considered.

- 5) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant.

**Section 1400.120 Application for Examination**

- a) An applicant shall file an application on forms supplied by the Division prior to an examination date. The application shall include:
  - 1) Certification of receipt of a doctoral degree as defined in Section 1400.100 and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;
  - 2) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.110. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.110; and
  - 3) The required fee set forth in Section 1400.40.
- b) In addition to the documents listed in subsection (a), candidates applying under Section 1400.100(b) and (c) shall submit documentation, as required in Section 1400.100(b) and (c), of the practicum and internship training.
- c) Applicants who are graduates from educational institutions outside the United States shall provide, in addition to those requirements listed in subsections (a) and (b), a certified translation of all documents submitted in any language other than English.
- d) In addition, the applicant shall cause to be sent directly to the Division certification of the date of completion of degree requirements, if different from the date of the awarding of the degree, by the certifying educational administration official, for computation of post-doctoral experience as provided

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

for in Section 1400.110.

- e) Each application shall be reviewed on an individual basis by the Board in accordance with this Section.
- f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking a license will be requested to:
  - 1) Provide such information as may be necessary; and/or
  - 2) Appear for oral interviews before the Board.
- g) Upon recommendation by the Board and approval by the Division, the applicant shall be notified of eligibility to sit for the examination or notified of the reasons for denial of the application.

**Section 1400.130 Examination**

- a) The required examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB).
- b) The minimum passing grade on the examination shall be the passing score set by the testing entity.
- c) The Division will accept proof of completion of the EPPP taken in another jurisdiction with the passing score set by the testing entity. That proof must be forwarded directly to the Division from the testing service.
- d) The Division will accept, in lieu of passage of the examination specified in subsection (a), passage of the examination in clinical or counseling psychology of the American Board of Professional Psychology.

**Section 1400.140 Endorsement for Clinical Psychologist**

- a) Any person who is currently licensed in another state or territory of the United

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

States or a foreign country desiring to obtain a license as a licensed clinical psychologist pursuant to Section 11 of the Act shall file an application with the Division, on forms provided by the Division, that shall include:

- 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:
    - A) The date of issuance of the applicant's license;
    - B) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and
    - C) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;
  - 2) Certification of graduation from a psychology program, as defined in Section 1400.100, and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;
  - 3) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.110. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant under Section 1400.110; and
  - 4) The required fee specified in Section 1400.40.
- b) An individual applying under subsection (a) may satisfy the requirements of subsections (a)(2) and (a)(3) by submitting proof that the licensing standards of his or her original jurisdiction were substantially equivalent to those of Illinois as of the date of his/her licensure in that jurisdiction. The Division, upon recommendations of the Board, has determined that the following shall be proof of substantial equivalence:
- 1) A valid Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards if a

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

doctoral degree was conferred in the areas of clinical or counseling psychology; or

- 2) For an individual who is currently credentialed by the National Register of Health Service Psychologists, evidence of having an active licensing and practicing psychology independently at the doctoral level for a minimum of 5 years.
- c) Any person currently licensed in the United States or Canada desiring to obtain a license as a licensed clinical psychologist under the provisions for senior psychologists who have been licensed for at least 20 years (see Section 11(b)(1) of the Act) shall file an application with the Division that shall include:
  - 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:
    - A) The date of issuance of the applicant's license and the level of licensure;
    - B) The basis of licensure and a description of the examination by which the applicant was licensed, if any;
    - C) If multiple levels of practice are licensed, that the license is at the highest level of practice in that jurisdiction; and
    - D) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;
  - 2) Proof that the applicant has been actively and lawfully licensed to practice clinical psychology in another state or Canada for at least 20 consecutive years and that his or her licenses have never been disciplined by another state or Canada. An applicant whose license has been disciplined by another jurisdiction shall not be eligible nor shall the applicant be issued a license pursuant to this subsection (c); however, the applicant's credentials may be reviewed pursuant to subsection (a) or by examination;
  - 3) Verification of a doctoral degree in psychology from a college, university or school that was regionally accredited in the jurisdiction in which it is located by a body recognized by the Council for Higher Education

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

Accreditation (or on of its predicesor organizations) at the time the degree was granted and an official transcript; and

- 4) The required fee specified in Section 1400.40.
- d) Each application shall be reviewed on an individual basis by the Board in accordance with this Section. The Division or Board may request from the applicant a copy of the Act and rules from the state of original licensure that were in effect at the time of licensure.
- e) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the Division or the Board, because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking a license will be requested to:
  - 1) Provide such information as may be necessary; and/or
  - 2) Appear for oral interviews before the Board.
- f) Upon recommendation of the Board and approval by the Division, the applicant shall be notified of eligibility to sit for the examination, issued a license by endorsement, or notified of the reasons for denial of the application.

## SUBPART C: PRESCRIBING PSYCHOLOGIST

**Section 1400.200 Licensure Qualifications**

- a) An individual applying for licensure as a prescribing psychologist pursuant to the Act shall meet the following educational/experience requirements pursuant to Section 4.2 of the Act:
  - 1) Hold a current license to practice clinical psychology in Illinois.
  - 2) Successfully complete the following minimum educational and training requirements either during the doctoral program required for licensure as a clinical psychologist, or at any other time in an undergraduate or master's level program accredited by a regional accrediting body recognized by the Council for Higher Education Accreditation:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- A) Specific minimum undergraduate biomedical prerequisite coursework, consisting of at least 3 semester credit hours per semester or quarter hours-equivalent, including but not limited to the following subject areas:
- i) Medical Terminology (class or proficiency);
  - ii) Chemistry or Biochemistry with lab (2 semesters);
  - iii) Human Physiology (one semester);
  - iv) Human Anatomy (one semester);
  - v) Anatomy and Physiology (one semester);
  - vi) Microbiology with lab (one semester);
  - vii) General Biology for science majors or Cell and Molecular Biology (one semester).
- B) A minimum of 60 semester credit hours or quarter hours-equivalent of didactic coursework that includes, but is not limited to, the following 10 subject areas. A minimum of 3 credit hours must be completed in each of the following 10 subject areas.
- i) Pharmacology;
  - ii) Clinical Psychopharmacology;
  - iii) Clinical Anatomy and Integrated Science;
  - iv) Patient Evaluation;
  - v) Advanced Physical Assessment;
  - vi) Research Methods;
  - vii) Advanced Pathophysiology;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- viii) Diagnostic Methods;
  - ix) Problem Based Learning; and
  - x) Clinical and Procedural Skills.
- C) A full-time practicum of at least 14 months supervised clinical training of at least 36 credit hours, including a research project, as set forth in Section 1400.220; and
- 3) Achieve a passing score on the Psychopharmacology Examination for Psychologists (PEP). A passing score is that required by the PEP, administered by the American Psychological Association's College of Professional Psychology, or its successor organizations.
- b) For the purposes of this Section, the Board has determined that graduate level coursework satisfies the requirements of subsection (b).

**Section 1400.210 Application for a License on the Basis of Examination**

- a) An applicant shall file an application on forms supplied by the Division. The application shall include:
- 1) Submission of official transcripts documenting completion of the minimum biomedical prerequisite coursework as set forth in Section 1400.200(a)(2)(A);
  - 2) Submission of official transcripts documenting completion of the didactic coursework set forth in Section 1400.200(a)(2)(B);
  - 3) Proof of the successful completion of the examination set forth in Section 1400.200(a)(3). Scores shall be submitted to the Division directly from the testing entity; and
  - 4) The required fee set forth in Section 1400.40.
- b) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division or the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking a license will be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for oral interviews before the Board.
- c) Upon recommendation by the Board and approval by the Division, the applicant shall be notified of eligibility to sit for the examination or notified of the reasons for denial of the application.

**Section 1400.220 Clinical Rotations**

- a) *Applicants shall complete a full-time practicum including at least 14 months supervised clinical training of at least 36 credit hours, including a research project. During the clinical rotation program, students shall complete rotations in the following areas:*
  - 1) *Emergency Medicine;*
  - 2) *Family Medicine;*
  - 3) *Geriatrics;*
  - 4) *Internal Medicine;*
  - 5) *Obstetrics and Gynecology;*
  - 6) *Pediatrics;*
  - 7) *Psychiatry;*
  - 8) *Surgery; and*
  - 9) *One elective of the program participant's choice. (Section 4.2(a)(2)(C) of the Act)*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- b) The clinical rotation training shall be completed either within the parameters of an American Psychological Association (APA) or equivalent approved doctoral program or pre-doctoral program, or during a post-doctoral master's program in clinical psychopharmacology. The training program must be housed in an institution that is accredited by a regional accrediting body recognized by the Council for Higher Education Accreditation. The clinical rotation program shall meet the following requirements:
- 1) All program faculty and preceptors must hold an active physician and surgeon, advanced practice nurse, or prescribing psychologist license. Program faculty and preceptors must be sufficient in number and be qualified through academic and clinical experience to provide enrolled participants with sufficient attention, instruction and supervised practice experiences necessary to acquire the knowledge and competencies required to meet the objectives of the program.
  - 2) A program must have access to adequate labs and clinical medical rotation sites for participants. A program must assure that clinical support services, including pharmacy, clinical laboratory and diagnostic imaging, are readily available to participants on clinical rotations. Clinical support staff must be available in numbers sufficient that participants are not expected to serve as replacements for staff.
  - 3) In order to be considered a full-time practicum, the program must require a minimum of 20 clock-hours of rotations per week and require all 36 credits of rotations to be completed within a minimum of 14 months and maximum of 28 months after the participant begins his/her rotations. To earn 36 hours of clinical rotation training credits, a participant must complete a minimum of 1,620 clock-hours of clinical rotation training.
  - 4) The program must provide participants with experience in progressive responsibilities for patient management. Participants must be provided the opportunity to observe and demonstrate competence in skills necessary for the assessment and treatment of mental disorders within a medical setting under supervision of a physician.
  - 5) The program must assure that the volume and variety of clinical experiences provides for a sufficient number and distribution of appropriate experiences/cases for each participant to meet defined

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

program expectations. Clinical rotations may be held in *hospitals, hospital outpatient clinics, community mental health clinics and correctional facilities* (Section 4.2(a)(2)(C) of the Act). The program must coordinate clinical sites and preceptors for program required rotations.

- 6) Program participants must be clearly identified as such to distinguish them from physicians, medical residents, APNs, prescribing psychologists, and other health care professionals and residents.
  - 7) The program must conduct periodic, objective and documented formative evaluations of participants to assess their acquisition of knowledge, problem-solving skills and clinical competencies.
  - 8) The program must define and maintain consistent and effective processes for the initial and ongoing evaluation of all sites and preceptors used for participants' clinical practice experiences.
- c) *The Department shall consider the standards set in the Accreditation Review Commission on Education for the Physician Assistant* (Section 4.2(a)(2)(C) of the Act) in determining whether a program meets the requirements in subsection (b).
  - d) A program seeking pre-approval shall apply to the Department pursuant to Section 1400.230.

**Section 1400.230 Clinical Rotation Program Approval**

- a) An institution seeking approval of a clinical rotation program under Section 1400.220 may apply for an approval of its program from the Department. An application for approval shall include:
  - 1) Documentation demonstrating compliance with the standards set forth in Section 1400.220, including:
    - A) curriculum vitae of program faculty;
    - B) a proposal for the clinical rotation program, including:
      - i) program mission statement and objectives;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- ii) plan of organization;
  - iii) proposed clinical rotations, including requisite and elective rotations and outlines and goals for each proposed rotation; and
  - iv) evaluation plans for faculty and program participants; and
- 2) The fees required by Section 1400.40(a)(6).
- b) If, upon review by the Department, an institution that has applied for approval pursuant to this Part fails to meet the requirements of this Part, the Department may issue a deficiency letter to the institution. The institution shall have 3 months to cure the deficiencies identified by the Department.
- c) The Department may withdraw approval of a clinical rotation program for reasons that include, but are not limited to:
- 1) Any actions that would constitute a violation of the Act or this Part;
  - 2) Fraud or dishonesty in applying for approval under this Part;
  - 3) Failure to continue to meet the criteria for a clinical rotation program under the Act and this Part;
  - 4) Failure to comply with a recommendation of the Board or Department following an investigation by the Department;
  - 5) Revocation of APA or other institutional approval by a regional accrediting body recognized by the Council for Higher Education Accreditation.
- d) Upon written notification of withdrawal of approval by the Department, a clinical program may be granted a hearing at the discretion of the Department.
- e) An institution seeking to modify a program approved under this Section may seek reapproval by submitting a new application and fee.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- f) An individual applicant for a prescribing psychologist license who has graduated from a program approved under this Section must still demonstrate compliance with all licensure requirements set forth in the Act and this Part as of the date of application. Prescribing psychologist applicants who have graduated from an approved program may still be required by the Department to provide a transcript or other documents.

**Section 1400.240 Written Collaborative Agreements**

*A written collaborative agreement is required for all prescribing psychologists practicing under a prescribing psychologist license issued pursuant to the Act. (Section 4.3(a) of the Act)*

- a) *A written delegation of prescriptive authority by a collaborating physician may only include medications for the treatment of mental health disease or illness the collaborating physician generally provides to his/her patients in the normal course of his/her clinical practice. (Section 4.3(b) of the Act) The delegation of prescriptive authority should include authorization to order laboratory testing, imagery and medical tests necessary prior to prescribing medication during the period of prescribed medication and at the end of a period of prescribed medication. The collaborating physician must hold a valid current Illinois controlled substance license and federal registration to delegate authority to prescribe delegated controlled substances.*
- b) *The collaborating physician shall file with the Department a notice of delegation of authority to prescribe any non-narcotic Schedule III through V controlled substances, the licensed prescribing psychologist shall be eligible to register for a mid-level practitioner controlled substance license under Section 303.5 of the Illinois Controlled Substances Act [720 ILCS 570]. (Section 4.3(c) of the Act)*
- c) *Any delegation of Schedule III through V controlled substances shall identify the specific controlled substance by brand name or generic name. (Section 4.3(d)(1) of the Act)*
- d) *A written collaborative agreement shall:*
- 1) *Describe the working relationship between the prescribing psychologist and the collaborating physician and delegate prescriptive authority as provided in the Act. (Section 4.3(e) of the Act)*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 2) *Promote the exercise of professional judgment by the prescribing psychologist in accordance with his/her training, education and experience. (Section 4.3(f) of the Act)*
- 3) *Provide methods and guidelines for communication between the collaborating physician and the prescribing psychologist, including in-person and telephonic communications. It is not necessary to provide for the personal presence of the collaborating physician at the place where services are rendered by the prescribing psychologist. (Section 4.3(g) of the Act)*
- 4) *Provide for adequate collaboration between the physician and prescribing psychologist, including provisions that the physician shall:*
  - A) *participate in the joint formulation and joint approval of orders or guidelines with the prescribing psychologist and periodically review the prescribing psychologist's orders or guidelines and the services provided patients under the orders in accordance with accepted standards of medical practice and prescribing psychologist practice;*
  - B) *collaborate and consult with the prescribing psychologist in person, either in the prescribing psychologist's physical presence or via real-time video conferencing, at least once a month for review of safety and quality clinical care or treatment;*
  - C) *be available through telecommunications for consultation on medical problems, complications, emergencies, or patient referrals, as needed; and*
  - D) *review medication orders of the prescribing psychologist no less than monthly, including review of laboratory tests and other tests as available. (Section 4.3(h) of the Act)*
- 5) *Contain provisions detailing notice for termination or change of status involving a written collaborative agreement, except when the notice is given for just cause. (Section 4.3(i) of the Act)*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- e) If there is no *employment relationship between the collaborating physician and prescribing psychologist, a written collaborative agreement should not restrict third-party payment sources accepted by the prescribing psychologist.* (Section 4.3(e) of the Act)
- f) *A copy of a fully executed collaborative agreement shall be available to the Department within a reasonable time upon request to either the prescribing psychologist or the collaborating physician.* (Section 4.3(j) of the Act)
- g) *A prescribing psychologist shall inform each collaborating physician of all collaborative agreements he/she has signed and provide copies of all collaborating agreements to each collaborating physician.* (Section 4.3(l) of the Act)
- h) *No collaborating physician shall enter into more than 3 collaborative agreements with prescribing psychologists at the same time.* (Section 4.3(m) of the Act)

**Section 1400.250 Prescribing Authority**

- a) *A prescribing psychologist may only prescribe medication pursuant to the provisions of the Act and this Part if the prescribing psychologist:*
  - 1) *Continues to hold a current license to practice psychology in Illinois.*
  - 2) *Completes the required continuing education annually in accordance with this Part.*
  - 3) *Maintains a written collaborative agreement in accordance with Section 4.3 of the Act and Section 1400.240 of this Part.* (Section 4.2 of the Act)
- b) *The following may not be included in any written delegation of prescriptive authority by a collaborating physician:*
  - 1) *Patients who are less than 17 years of age or patients who are over 65 years of age. If a patient is 65 years of age, the prescribing psychologist shall begin transferring care to a physician at least 3 months prior to the patient's 66<sup>th</sup> birthday to ensure continuity of care.*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 2) *Patients during pregnancy* who have disclosed they are pregnant, or who the prescribing psychologist discovers are pregnant.
  - 3) *Patients* who have disclosed *serious medical conditions, such as heart disease, cancer, stroke or acute seizures and patients with developmental and intellectual disabilities*. If there is a question regarding whether a patient has disclosed any of the aforementioned medical conditions that should be considered serious and thus prevent the prescribing psychologist from prescribing medication, the prescribing psychologist should consult with the patient's treating physician or the collaborating physician who will determine whether the patient's condition should be considered a serious medical condition under this Section.
  - 4) *Prescriptive authority for benzodiazepine Schedule III controlled substances*. (Section 4.3(b) of the Act)
  - 5) *Prescriptive authority for any controlled substance to be delivered by injection*.
  - 6) *Prescriptive authority for any Schedule II substance*.
  - 7) *Prescriptive authority for any narcotic drug as defined by Section 102 of the Illinois Controlled Substances Act*. (Section 4.3(d) of the Act)
- c) *Any prescribing psychologist who writes a prescription for a controlled substance without having valid and appropriate authority may be fined by the Department not more than \$50 per prescription and the Department may take any other disciplinary action provided for in the Act that is reasonable and appropriate under the circumstances*. (Section 4.3(d) of the Act)
  - d) All prescriptions written and signed by a prescribing psychologist shall indicate the name of the collaborating physician. The collaborating physician's signature is not required. The prescribing psychologist shall sign his/her own name.

**Section 1400.260 Endorsement for Prescribing Psychologists**

- a) *Individuals who are licensed as medical or prescribing psychologists in another state may apply for an Illinois prescribing psychologist license by endorsement from that state, or acceptance of that state's examination if they meet the*

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

*requirements set forth in the Act and this Part, including proof of successful completion of the educational, testing and experience standards. If an applicant meets the requirements set forth in the Act and this Part, including educational, testing and experience standards, and pays all required fees, the applicant may not be required to take the examination otherwise required under the Act for licensure as a prescribing psychologist. (Section 4.5(a) of the Act)*

- b) *Individuals who graduated from the Department of Defense Psychopharmacology Demonstration Project, or a similar program developed and operated under the auspices of any branch of the United States armed forces, may apply for an Illinois prescribing psychologist license by endorsement. Applicants from the Department of Defense Psychopharmacology Demonstration Project may not be required to take the examination otherwise required under the Act for licensure as a prescribing psychologist if they meet the requirements set forth in the Act and this Part, including educational, testing and experience standards, and pay all required fees. (Section 4.5(b) of the Act)*
- c) *Individuals applying for licensure by endorsement must first obtain a clinical psychologist license in Illinois. (Section 4.5(c) of the Act)*

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

**Section 1400.EXHIBIT A Sample Written Collaborative Agreement**

PRESCRIBING PSYCHOLOGIST  
WRITTEN COLLABORATIVE AGREEMENT

A. PRESCRIBING PSYCHOLOGIST INFORMATION

1. NAME: \_\_\_\_\_

2. ILLINOIS CLINICAL PSYCHOLOGIST LICENSE NUMBER:  
\_\_\_\_\_

ILLINOIS PRESCRIBING PSYCHOLOGIST NUMBER:  
\_\_\_\_\_

3. PRACTICE SITES: (Attach List of Sites)

4. CONTACT NUMBER: \_\_\_\_\_  
FACSIMILE NUMBER: \_\_\_\_\_  
EMERGENCY CONTACT NUMBERS: (e.g., cell, pager, answering service)  
\_\_\_\_\_

5. ATTACHMENTS (If applicable):  
Copies of Clinical and Prescribing Psychologist Licenses  
Copy of Certificate of Insurance  
Copies of other written collaborative agreements (if any)

B. COLLABORATING PHYSICIAN

1. NAME: \_\_\_\_\_

2. ILLINOIS LICENSE NUMBER: \_\_\_\_\_

3. PRACTICE AREA OR CONCENTRATION: \_\_\_\_\_

4. BOARD CERTIFICATION (if any): \_\_\_\_\_

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

5. CERTIFYING ORGANIZATION: \_\_\_\_\_
6. PRACTICE SITES: (Attach List of Sites)
7. CONTACT NUMBER: \_\_\_\_\_  
FACSIMILE NUMBER: \_\_\_\_\_  
EMERGENCY CONTACT NUMBERS: (e.g., cell, pager, answering service)

## C. PRESCRIBING PSYCHOLOGIST COLLABORATING PHYSICIAN WORKING RELATIONSHIP

## 1. WRITTEN COLLABORATIVE AGREEMENT REQUIREMENT

A written collaborative agreement is required for all prescribing psychologists practicing under a prescribing psychologist license.

The collaborating physician shall file with the Illinois Department of Financial and Professional Regulation (the "Department") notice of delegation of prescriptive authority and any termination of delegation. In addition, a copy of a fully executed collaborative agreement shall be available to the Department within a reasonable time upon request to either the prescribing psychologist or the collaborating physician. The prescribing psychologist shall inform the collaborating physician of all active collaborating agreements he/she has signed and provide the collaborating physician copies of all those collaborating agreements. The collaborating physician shall not enter into more than 3 collaborating agreements with prescribing psychologists at the same time.

## 2. SCOPE OF PRACTICE

Under this agreement, the prescribing psychologist will work in an active practice to deliver mental health care services to patients. This includes, but is not limited to, assessment and diagnosis, ordering diagnostic and therapeutic tests and procedures, ordering imagery, interpreting and using the results of diagnostic and therapeutic tests and procedures ordered by the prescribing psychologist or another health care professional and prescriptive authority. The prescribing psychologist will consult with the collaborating physician as outlined in Section 3 below.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

## 3. COLLABORATION AND CONSULTATION

Collaboration and consultation shall be adequate if the collaborating physician:

- (A) participates in the joint formulation and joint approval of orders or guidelines with the prescribing psychologist and periodically reviews those orders and the services provided patients under those orders in accordance with accepted standards of medical practice and prescribing psychologist practice;
- (B) meets in person or in real-time video conferencing with the prescribing psychologist at least once a month to provide collaboration and consultation for review of safety and quality clinical care or treatment;
- (C) is available through telecommunications for consultation on medical problems, complications and emergencies or for patient referral; and
- (D) reviews medication orders of the prescribing psychologist no less than monthly, including review of laboratory tests and other tests as available.

Nothing in this agreement shall be construed to limit the authority of a prescribing psychologist to perform all duties authorized under the Clinical Psychologist Licensing Act.

The written collaborative agreement shall be for medications for the treatment of mental health disease or illness the collaborating physician generally provides to his or her patients in the normal course of clinical practice, with the exception of the following:

- (A) Patients who are less than 17 years of age or patients who are over 65 years of age. If a patient is 65 years of age, the prescribing psychologist shall begin transferring care to a physician at least 3 months prior to the patient's 66<sup>th</sup> birthday.
- (B) Patients who have disclosed they are pregnant, or who the prescribing psychologist otherwise discovers are pregnant.
- (C) Patients who have disclosed serious medical conditions, such as heart disease, cancer, stroke or acute seizures, and patients with developmental and intellectual disabilities. If there is a question as to whether a patient has disclosed a medical condition that should be considered serious, and

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

thus prevent the prescribing psychologist from prescribing medication, then the prescribing psychologist should consult with the collaborating physician, who will determine whether the patient's condition should be considered a serious medical condition.

- (D) Prescriptive authority for benzodiazepine Schedule III controlled substances.
- (E) Prescriptive authority for any controlled substance to be delivered by injection.
- (F) Prescriptive authority for any Schedule II substance.
- (G) Prescriptive authority for any narcotic drug as defined by Section 102 of the Illinois Controlled Substances Act.

## 4. COMMUNICATION, CONSULTATION AND REFERRAL

The prescribing psychologist shall consult with the collaborating physician by telecommunication, real-time video conferencing or in person, as needed. In the absence of the designated collaborating physician, another physician shall be available for consultation, as designated by agreement between the collaborating physician and prescribing psychologist.

## 5. DELEGATION OF PRESCRIPTIVE AUTHORITY

As the collaborating physician, any prescriptive authority delegated to the prescribing psychologist is set forth in an attached document. As required by 225 ILCS 15/4.3(d)(1), any delegation of a Schedule III through V controlled substance shall identify the specific controlled substance by brand name or generic name.

Should the collaborating physician wish to terminate this agreement, he/she should provide at least 30 days written notice to the prescribing psychologist so that he/she has the opportunity to enter into a collaborating agreement with another qualified physician. If the collaborating physician has a change in his/her status that affects his/her ability to prescribe medications or act as a collaborating physician, he/she must notify the prescribing psychologist as soon as reasonably possible. The prescribing psychologist may terminate this agreement at any time upon written notice to the collaborating physician.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

NOTE: THE PRESCRIBING PSYCHOLOGIST MAY ONLY PRESCRIBE CONTROLLED SUBSTANCES UPON RECEIPT OF AN ILLINOIS MID-LEVEL PRACTITIONER CONTROLLED SUBSTANCES LICENSE.

WE THE UNDERSIGNED AGREE TO THE TERMS AND CONDITIONS OF THIS WRITTEN COLLABORATIVE AGREEMENT.

\_\_\_\_\_  
Collaborating Physician's  
Signature/Date

\_\_\_\_\_  
Prescribing Psychologist's  
Signature/Date

\_\_\_\_\_  
Physician's Typed Name

\_\_\_\_\_  
Prescribing Psychologist's Typed Name

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1200.5	Amendment
1200.30	Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to section 1200.5 changes the address of the Board's Springfield office. The proposed amendment to Section 1200.30 changes provisions addressing the computation and extensions of time for the filing of documents before the Board.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Anna Hamburg-Gal  
Associate General Counsel  
160 N. LaSalle St., Ste. 400  
Chicago IL 60601

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

312/793-6380

Anna.Hamburg-Gal@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.
  - B) Reporting, bookkeeping or other procedures required for compliance: Small businesses, small municipalities and not for profit corporations will not be affected.
  - C) Types of professional skills necessary for compliance: Small businesses, small municipalities and not for profit corporations will not be affected.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the July 2016 regulatory agenda. The proposed change related to section 1200.5 was not included because the Board's Springfield address had not change as of that date. The proposed change related to Section 1200.30 was not included because it was inadvertently omitted.

The full text of the Proposed Amendments begins on the next page:

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1200  
GENERAL PROCEDURES

Section	
1200.3	General Statement of Purpose
1200.5	Board Information and Business Hours
1200.7	Board Meetings
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Authority of Administrative Law Judges
1200.45	Motions
1200.50	Recording of Hearings and Payment of Court Reporting Services
1200.60	Closing Arguments and Briefs Before An Administrative Law Judge
1200.70	Representation of Parties
1200.80	Ex Parte Communications
1200.90	Subpoenas
1200.100	Transfer of Jurisdiction
1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs (Repealed)
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.135	Appeals Procedures, Board Review and Court Review
1200.140	Briefs
1200.143	Declaratory Rulings
1200.145	Filing of Contracts
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules
1200.170	Board Member Meeting Attendance by Means other than Physical Presence

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill.

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; emergency amendment at 37 Ill. Reg. 5897, effective April 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 14064, effective August 23, 2013; amended at 37 Ill. Reg. 20637, effective December 13, 2013; emergency amendment at 39 Ill. Reg. 10641, effective July 15, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 15803, effective November 25, 2015; amended at 40 Ill. Reg. 10892, effective August 1, 2016; expedited correction at 40 Ill. Reg. 13495, effective August 1, 2016; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1200.5 Board Information and Business Hours**

- a) The Springfield office of the Illinois Labor Relations Board is located at:

~~801 South Seventh Street, Ste. 1200-A One Natural Resources Way, First Floor~~  
Springfield IL ~~62703~~~~62702~~  
telephone: 217-785-3155  
facsimile: 217-785-4146

- b) The Chicago office of the Board is located at:

160 N. LaSalle St., Suite S-400  
Chicago IL 60601  
telephone: 312-793-6400  
facsimile: 312-793-6989

- c) The Board's website address is [www.Illinois.gov/ilrb](http://www.Illinois.gov/ilrb). The Board's designated email address for electronic filing purposes is [ILRB:filing@Illinois.gov](mailto:ILRB:filing@Illinois.gov).
- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

**Section 1200.30 Computation and Extensions of Time**

- a) In computing any period of time prescribed by the Act or this Part, the designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed. If the day after the act, event or default when the period is supposed to begin to run happens to be a Saturday, Sunday or legal holiday, the period does not begin to run until the next day that is not a Saturday, Sunday or legal holiday. If the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.
- b) When a time period prescribed under the Act or this Part is ~~less than~~ 7 days or less, intervening Saturdays, Sundays, or legal holidays shall not be included.
- c) Service of a document upon a party by mail shall be presumed complete 3 business days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds for overcoming the presumption.
- d) Requests for postponements of hearings shall be filed in accordance with Section 1200.45. Requests for postponements of investigations or scheduled conferences, as well as requests for extensions for the filing of briefs, exceptions or responses must be made prior to the then existing deadlines. ~~These~~ Such requests will not be granted unless good and sufficient cause is shown and the following requirements are met:
- 1) all requests must be in writing directed to the investigator, Administrative Law Judge, Executive Director or General Counsel responsible for the proceeding;
  - 2) the grounds for the request must be set forth in detail;
  - 3) the requesting party must specify alternative dates for scheduling the hearing or conference or for the due date of any documents;
  - 4) the position of all parties concerning both the postponement or extension requested and the proposed alternative dates must be ascertained in

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

advance by the requesting party and set forth in the request;

- 5) for purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case;
- 6) except for good cause shown, no request for postponement will be granted on any of the 3 days immediately preceding the date of a hearing, investigation or conference. All continuances must be to a date and time certain; in no event shall an indefinite continuance be granted.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Impasse Resolution
- 2) Code Citation: 80 Ill. Adm. Code 1230
- 3) Section Number: 1230.50                      Proposed Action:  
Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) A Complete Description of the Subject and Issues Involved: The Board became aware of an inaccurate citation to another Section of the rules. This proposed amendment seeks to correct that error.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Anna Hamburg-Gal  
160 N. LaSalle St. Ste. 400  
Chicago IL 60601

312/793-6380  
Anna.Hamburg-Gal@illinois.gov

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: Small businesses, small municipalities and not-for-profit corporations will not be affected.
  - C) Types of professional skills necessary for compliance: Small businesses, small municipalities and not-for-profit corporations will not be affected.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the July 2016 regulatory agenda. It was not included because the Board just recently became aware of the issue.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARD

PART 1230  
IMPASSE RESOLUTION

SUBPART A: STATEMENT OF PURPOSE AND DEFINITIONS

Section	
1230.10	General Statement of Purpose
1230.20	Definitions (Repealed)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section	
1230.30	General Purpose of this Subpart
1230.40	Filing of Contracts (Repealed)
1230.50	Bargaining Notices for Protective Services Units
1230.60	Mediation
1230.70	Demand for Compulsory Interest Arbitration
1230.80	Composition of the Arbitration Panel
1230.90	Conduct of the Interest Arbitration Hearing
1230.100	The Arbitration Award
1230.110	Employer Review of the Award

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section	
1230.120	General Purpose of this Subpart
1230.130	Filing of Contracts (Repealed)
1230.140	Bargaining Notices for General Public Employee Units
1230.150	Mediation
1230.160	Fact-finding
1230.170	Voluntary Interest Arbitration
1230.180	Strikes
1230.190	Petitions for Strike Investigations

SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

## Section

1230.200 Grievance Arbitration

1230.210 Grievance Mediation

## SUBPART E: ILLINOIS PUBLIC EMPLOYEE MEDIATION/ARBITRATION ROSTER

## Section

1230.220 Mediation/Arbitration Roster

AUTHORITY: Implementing Sections 7, 12, 13, 17 and 18 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act [5 ILCS 315/7, 12, 13, 17, 18, 5(i) and (j)].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17322, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1857, effective January 25, 1985; Part repealed, new Part adopted at 11 Ill. Reg. 6434, effective March 27, 1987; amended at 12 Ill. Reg. 20102, effective November 18, 1988; amended at 14 Ill. Reg. 19903, effective November 30, 1990; amended at 17 Ill. Reg. 15599, effective September 13, 1993; amended at 27 Ill. Reg. 7456, effective May 1, 2003; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

**Section 1230.50 Bargaining Notices for Protective Services Units**

- a) The following notice requirements shall apply ~~when~~where the parties are bargaining for a successor contract:
  - 1) Pursuant to Section 7 of the Act, any party wishing to terminate or modify an existing collective bargaining agreement shall serve on the other party a written notice of their intent to terminate or modify. The notice shall be served on the other party 60 days prior to the scheduled termination date of the existing agreement. A copy of the notice shall be filed with the Board by the party wishing to terminate or modify at the same time it is served on the other party. The notice filed with the Board shall reference the existing contract's number as assigned by the Board.
  - 2) If, no later than 30 days after service of the notice of the intent to terminate or modify, the parties have not reached agreement on a new contract, the party who filed the notice shall serve on the other party and the Board a Notice of No Agreement. The Notice shall be on a Board-

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

designated form and shall set forth:

- A) whether the parties are engaged in mediation and, if so, with whom;
  - B) if the parties are not in mediation, whether the parties desire the Board's assistance in obtaining mediation;
  - C) if the parties are not in mediation and do not require the Board's assistance in obtaining mediation, a statement from the parties that they are fully aware of the mandate of Section 14 of the Act that they engage in mediation 30 days prior to the expiration of a contract.
- b) The following notice requirements shall apply when the parties are bargaining for an initial contract:
- 1) Any time after the Board certifies an exclusive representative or at any time when there exists a valid historical bargaining relationship but no current contract, any party may serve on the other party a written demand for bargaining. A copy of the demand for bargaining shall be filed with the Board by the party making the demand at the same time it is served on the other party. The parties shall begin bargaining at any reasonable time after the demand is filed and served.
  - 2) Thirty days after the initial bargaining session between the parties, the party who filed the demand for bargaining shall file with the Board a Notice of Status of Negotiations. The Notice shall be on a Board-designated form and set forth:
    - A) whether the parties are engaged in mediation and, if so, with whom;
    - B) if the parties are not in mediation, whether the parties desire the Board's assistance in obtaining mediation.;
- c) Upon completing negotiations for either a successor or initial contract, the parties shall file with the Board a copy of the contract pursuant to [80 Ill. Adm. Code 1200.145](#) ~~Section 1230.40(a)(1)~~.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Sewer Discharge Criteria
- 2) Code Citation: 35 Ill. Adm. Code 307
- 3) Section Number: 307.3301                      Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R16-9 rulemaking of which the amendments to Part 307 are a single segment. Also affected is 35 Ill. Adm. Code 310, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of October 6, 2016, proposing amendments in docket R16-9, which opinion and order is available from the address below.

This proceeding updates the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the second half of 2015:

October 22, 2015 (80 Fed. Reg. 64064)

USEPA adopted mandatory digital reporting rules for facilities permitted under the National Pollutant Discharge Elimination System (NPDES) program and indirect dischargers. The Board will incorporate the wastewater pretreatment elements of these reporting requirements into the Illinois pretreatment regulations.

November 3, 2015 (80 Fed. Reg. 67838)

USEPA amended wastewater effluent requirements applicable to sources in the Steam Electric Power Generating Point Source Category. Some of the amendments related to wastewater pretreatment. The Board will incorporate the wastewater pretreatment elements of these revised standards into the Illinois pretreatment regulations.

Specifically, the amendments to Part 307 implement segments of the federal amendments of November 3, 2015. The amendments add the revisions to wastewater pretreatment-related provisions applicable to the Steam Electric Power Generating Point Source

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

Category. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 310 are a single segment of the docket R16-9 rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R16-9 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 307. A comprehensive description is contained in the Board's opinion and order of October 6, 2016, proposing amendments in docket R16-9, which opinion and order is available from the address below.

Tables appear in a document entitled "Identical-in –Substance Rulemaking Addendum (Proposed)" that the Board added to docket R16-9 which list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in–Substance Rulemaking Addendum (Proposed) in docket R16-9.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R16-9 and be addressed to:

John T. Therriault, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference docket R16-9:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].
- 14) Regulatory Agenda on which this rulemaking was summarized: 39 Ill. Reg. 15622; 15630-32, December 4, 2015

The full text of the Proposed Amendment begins on the next page:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARDPART 307  
SEWER DISCHARGE CRITERIA

## SUBPART A: GENERAL PROVISIONS

Section	
307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants
307.1006	Electronic Reporting

## SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

## SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties, and Other Dairy Desserts

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 307.1509 Condensed Milk
- 307.1510 Dry Milk
- 307.1511 Condensed Whey
- 307.1512 Dry Whey

SUBPART G: GRAIN MILLS

Section

- 307.1601 Corn Wet Milling
- 307.1602 Corn Dry Milling
- 307.1603 Normal Wheat Flour Milling
- 307.1604 Bulgur Wheat Flour Milling
- 307.1605 Normal Rice Milling
- 307.1606 Parboiled Rice Milling
- 307.1607 Animal Feed
- 307.1608 Hot Cereal
- 307.1609 Ready-to-Eat Cereal
- 307.1610 Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section

- 307.1700 General Provisions
- 307.1701 Apple Juice
- 307.1702 Apple Products
- 307.1703 Citrus Products
- 307.1704 Frozen Potato Products
- 307.1705 Dehydrated Potato Products
- 307.1706 Canned and Preserved Fruits
- 307.1707 Canned and Preserved Vegetables
- 307.1708 Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

Section

- 307.1801 Farm-Raised Catfish
- 307.1815 Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section

- 307.1901 Beet Sugar Processing
- 307.1902 Crystalline Cane Sugar Refining
- 307.1903 Liquid Cane Sugar Refining

SUBPART K: TEXTILE MILLS

Section

- 307.2000 General Provisions
- 307.2001 Wool Scouring
- 307.2002 Wool Finishing
- 307.2003 Low Water Use Processing
- 307.2004 Woven Fabric Finishing
- 307.2005 Knit Fabric Finishing
- 307.2006 Carpet Finishing
- 307.2007 Stock and Yarn Finishing
- 307.2008 Nonwoven Manufacturing
- 307.2009 Felted Fabric Processing

SUBPART L: CEMENT MANUFACTURING

Section

- 307.2101 Nonleaching
- 307.2102 Leaching
- 307.2103 Materials Storage Piles Runoff

SUBPART M: CONCENTRATED ANIMAL FEEDING OPERATIONS

Section

- 307.2201 General
- 307.2202 Ducks

SUBPART N: ELECTROPLATING

Section

- 307.2300 General Provisions
- 307.2301 Electroplating of Common Metals
- 307.2302 Electroplating of Precious Metals

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.2304	Anodizing
307.2305	Coatings
307.2306	Chemical Etching and Milling
307.2307	Electroless Plating
307.2308	Printed Circuit Boards

## SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

## Section

307.2400	General Provisions
307.2401	Rayon Fibers
307.2402	Other Fibers
307.2403	Thermoplastic Resins
307.2404	Thermosetting Resins
307.2405	Commodity Organic Chemicals
307.2406	Bulk Organic Chemicals
307.2407	Specialty Organic Chemicals
307.2410	Indirect Discharge Point Sources
307.2490	Non-Complexed Metal-Bearing and Cyanide-Bearing Waste Streams
307.2491	Complexed Metal-Bearing Waste Streams

## SUBPART P: INORGANIC CHEMICALS MANUFACTURING

## Section

307.2500	General Provisions
307.2501	Aluminum Chloride Production
307.2502	Aluminum Sulfate Production
307.2503	Calcium Carbide Production
307.2504	Calcium Chloride Production
307.2505	Calcium Oxide Production
307.2506	Chlor-Alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)
307.2508	Hydrofluoric Acid Production
307.2509	Hydrogen Peroxide Production
307.2511	Potassium Metal Production
307.2512	Potassium Dichromate Production
307.2513	Potassium Sulfate Production
307.2514	Sodium Bicarbonate Production
307.2516	Sodium Chloride Production
307.2517	Sodium Dichromate and Sodium Sulfate Production

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.2520	Sodium Sulfite Production
307.2522	Titanium Dioxide Production
307.2523	Aluminum Fluoride Production
307.2524	Ammonium Chloride Production
307.2527	Borax Production
307.2528	Boric Acid Production
307.2529	Bromine Production
307.2530	Calcium Carbonate Production
307.2531	Calcium Hydroxide Production
307.2533	Carbon Monoxide and Byproduct Hydrogen Production
307.2534	Chrome Pigments Production
307.2535	Chromic Acid Production
307.2536	Copper Salts Production
307.2538	Ferric Chloride Production
307.2540	Fluorine Production
307.2541	Hydrogen Production
307.2542	Hydrogen Cyanide Production
307.2543	Iodine Production
307.2544	Lead Monoxide Production
307.2545	Lithium Carbonate Production
307.2547	Nickel Salts Production
307.2549	Oxygen and Nitrogen Production
307.2550	Potassium Chloride Production
307.2551	Potassium Iodide Production
307.2553	Silver Nitrate Production
307.2554	Sodium Bisulfite Production
307.2555	Sodium Fluoride Production
307.2560	Stannic Oxide Production
307.2563	Zinc Sulfate Production
307.2564	Cadmium Pigments and Salts Production
307.2565	Cobalt Salts Production
307.2566	Sodium Chlorate Production
307.2567	Zinc Chloride Production

## SUBPART R: SOAP AND DETERGENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps
307.2708	Manufacture of Liquid Soaps
307.2709	Oleum Sulfonation and Sulfation
307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

## SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

## SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

## SUBPART U: IRON AND STEEL MANUFACTURING

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

## Section

307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking
307.3004	Steelmaking
307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating
307.3013	Other Operations

## SUBPART V: NONFERROUS METALS MANUFACTURING

## Section

307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals
307.3126	Secondary Tantalum
307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

## SUBPART X: STEAM ELECTRIC POWER GENERATING

Section	
307.3301	Steam Electric Power Generating

## SUBPART Y: FERROALLOY MANUFACTURING

Section	
307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces
307.3406	Electrolytic Manganese Products
307.3407	Electrolytic Chromium

## SUBPART Z: LEATHER TANNING AND FINISHING

Section	
307.3500	General Provisions
307.3501	Hair Pulp, Chrome Tan, Retan-Wet Finish
307.3502	Hair Save, Chrome Tan, Retan-Wet Finish
307.3503	Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish
307.3504	Retan-Wet Finish-Sides

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.3505	No Beamhouse
307.3506	Through-the-Blue
307.3507	Shearling
307.3508	Pigskin
307.3509	Retan-Wet Finish-Splits
307.3590	Potassium Ferricyanide Titration Method

## SUBPART BA: GLASS MANUFACTURING

Section	
307.3601	Insulation Fiberglass
307.3602	Sheet Glass Manufacturing
307.3603	Rolled Glass Manufacturing
307.3604	Plate Glass Manufacturing
307.3605	Float Glass Manufacturing
307.3606	Automotive Glass Tempering
307.3607	Automotive Glass Laminating
307.3608	Glass Container Manufacturing
307.3610	Glass Tubing (Danner) Manufacturing
307.3611	Television Picture Tube Envelope Manufacturing
307.3612	Incandescent Lamp Envelope Manufacturing
307.3613	Hand Pressed and Blown Glass Manufacturing

## SUBPART BB: ASBESTOS MANUFACTURING

Section	
307.3701	Asbestos-Cement Pipe
307.3702	Asbestos-Cement Sheet
307.3703	Asbestos Paper (Starch Binder)
307.3704	Asbestos Paper (Elastomeric Binder)
307.3705	Asbestos Millboard
307.3706	Asbestos Roofing
307.3707	Asbestos Floor Tile
307.3708	Coating or Finishing of Asbestos Textiles
307.3709	Solvent Recovery
307.3710	Vapor Absorption
307.3711	Wet Dust Collection

## SUBPART BC: RUBBER MANUFACTURING

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

## Section

307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3808	Wet Digestion Reclaimed Rubber
307.3809	Pan, Dry Digestion, and Mechanical Reclaimed Rubber
307.3810	Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber
307.3811	Latex Foam

## SUBPART BD: TIMBER PRODUCTS PROCESSING

## Section

307.3900	General Provisions
307.3901	Barking
307.3902	Veneer
307.3903	Plywood
307.3904	Dry Process Hardboard
307.3905	Wet Process Hardboard
307.3906	Wood Preserving – Water Borne or Nonpressure
307.3907	Wood Preserving – Steam
307.3908	Wood Preserving – Boulton
307.3909	Wet Storage
307.3910	Log Washing
307.3911	Sawmills and Planing Mills
307.3912	Finishing
307.3913	Particleboard Manufacturing
307.3914	Insulation Board
307.3915	Wood Furniture and Fixture Production without Water Wash Spray Booths or without Laundry Facilities
307.3916	Wood Furniture and Fixture Production with Water Wash Spray Booths or with Laundry Facilities

## SUBPART BE: PULP, PAPER, AND PAPERBOARD

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

## Section

307.4000	General Provisions
307.4001	Dissolving Kraft
307.4002	Bleached Papergrade Kraft and Soda
307.4003	Unbleached Kraft
307.4004	Dissolving Sulfite
307.4005	Papergrade Sulfite
307.4006	Semi-Chemical
307.4007	Mechanical Pulp
307.4008	Non-Wood Chemical Pulp
307.4009	Secondary Fiber Deink
307.4010	Secondary Fiber Non-Deink
307.4011	Fine and Lightweight Papers from Purchased Pulp
307.4012	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp
307.4013	Groundwood-Thermo-Mechanical (Repealed)
307.4014	Groundwood-CMN Papers (Repealed)
307.4015	Groundwood-Fine Papers (Repealed)
307.4016	Soda (Repealed)
307.4017	Deink (Repealed)
307.4018	Nonintegrated-Fine Papers (Repealed)
307.4019	Nonintegrated-Tissue Papers (Repealed)
307.4020	Tissue From Wastepaper (Repealed)
307.4021	Papergrade Sulfite (Drum Wash) (Repealed)
307.4022	Unbleached Kraft and Semi-Chemical (Repealed)
307.4023	Wastepaper-Molded Products (Repealed)
307.4024	Nonintegrated-Lightweight Papers (Repealed)
307.4025	Nonintegrated-Filter and Nonwoven Papers (Repealed)
307.4026	Nonintegrated-Paperboard (Repealed)

## SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

## Section

307.4101	Builder's Paper and Roofing Felt (Repealed)
----------	---

## SUBPART BG: MEAT PRODUCTS

## Section

307.4201	Simple Slaughterhouse
307.4202	Complex Slaughterhouse

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.4203	Low-Processing Packinghouse
307.4204	High-Processing Packinghouse
307.4205	Small Processor
307.4206	Meat Cutter
307.4207	Sausage and Luncheon Meats Processor
307.4208	Ham Processor
307.4209	Canned Meats Processor
307.4210	Renderer

## SUBPART BH: METAL FINISHING

Section	
307.4300	General Provisions
307.4301	Metal Finishing

## SUBPART BL: CENTRALIZED WASTE TREATMENT

Section	
307.4700	General Provisions
307.4701	Metals Treatment and Recovery
307.4702	Oils Treatment and Recovery
307.4703	Organics Treatment and Recovery
307.4704	Multiple Waste Streams

## SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section	
307.4900	General Provisions
307.4901	Fermentation Products
307.4902	Extraction Products
307.4903	Chemical Synthesis Products
307.4904	Mixing/Compounding and Formulation
307.4905	Research (Repealed)

## SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

Section	
307.5200	General Provisions
307.5201	Tank Trucks and Intermodal Tank Containers Transporting Chemical and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- Petroleum Cargos
- 307.5202 Rail Tank Cars Transporting Chemical and Petroleum Cargos
- 307.5203 Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos
- 307.5204 Tanks Transporting Food Grade Cargos

SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

- Section
- 307.5301 Asphalt Emulsion
- 307.5302 Asphalt Concrete
- 307.5303 Asphalt Roofing
- 307.5304 Linoleum and Printed Asphalt Felt

SUBPART BS: WASTE COMBUSTORS

- Section
- 307.5401 Commercial Hazardous Waste Combustor

SUBPART BT: LANDFILLS

- Section
- 307.5500 General Provisions
- 307.5501 RCRA Subtitle C Hazardous Waste Landfill
- 307.5502 RCRA Subtitle D Non-Hazardous Waste Landfill

SUBPART BU: PAINT FORMULATING

- Section
- 307.5601 Oil-Base Solvent Wash Paint

SUBPART BV: INK FORMULATING

- Section
- 307.5701 Oil-Base Solvent Wash Ink

SUBPART CD: PESTICIDE CHEMICALS

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 307.6500 General Provisions
- 307.6501 Organic Pesticide Chemicals Manufacturing
- 307.6502 Metallo-Organic Pesticides Chemicals Manufacturing
- 307.6503 Pesticide Chemicals Formulating and Packaging
- 307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

SUBPART CG: CARBON BLACK MANUFACTURING

Section

- 307.6801 Carbon Black Furnace Process
- 307.6802 Carbon Black Thermal Process
- 307.6803 Carbon Black Channel Process
- 307.6804 Carbon Black Lamp Process

SUBPART CJ: BATTERY MANUFACTURING

Section

- 307.7100 General Provisions
- 307.7101 Cadmium
- 307.7102 Calcium
- 307.7103 Lead
- 307.7104 Leclanche
- 307.7105 Lithium
- 307.7106 Magnesium
- 307.7107 Zinc

SUBPART CL: PLASTICS MOLDING AND FORMING

Section

- 307.7300 General Provisions
- 307.7301 Contact Cooling and Heating Water
- 307.7302 Cleaning Water
- 307.7303 Finishing Water

SUBPART CM: METAL MOLDING AND CASTING

Section

- 307.7400 General Provisions
- 307.7401 Aluminum Casting

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

307.7402 Copper Casting  
307.7403 Ferrous Casting  
307.7404 Zinc Casting

## SUBPART CN: COIL COATING

Section  
307.7500 General Provisions  
307.7501 Steel Basis Material  
307.7502 Galvanized Basis Material  
307.7503 Aluminum Basis Material  
307.7504 Canmaking

## SUBPART CO: PORCELAIN ENAMELING

Section  
307.7600 General Provisions  
307.7601 Steel Basis Material  
307.7602 Cast Iron Basis Material  
307.7603 Aluminum Basis Material  
307.7604 Copper Basis Material

## SUBPART CP: ALUMINUM FORMING

Section  
307.7700 General Provisions  
307.7701 Rolling With Neat Oils  
307.7702 Rolling With Emulsions  
307.7703 Extrusion  
307.7704 Forging  
307.7705 Drawing With Neat Oils  
307.7706 Drawing With Emulsions or Soaps

## SUBPART CQ: COPPER FORMING

Section  
307.7800 General Provisions  
307.7801 Copper Forming  
307.7802 Beryllium Copper Forming

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

## SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

## Section

307.7901	Semiconductor
307.7902	Electronic Crystals
307.7903	Cathode Ray Tube
307.7904	Luminescent Materials

## SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

## Section

307.8100	General Provisions
307.8101	Lead-Tin-Bismuth Forming
307.8102	Magnesium Forming
307.8103	Nickel-Cobalt Forming
307.8104	Precious Metals Forming
307.8105	Refractory Metals Forming
307.8106	Titanium Forming
307.8107	Uranium Forming
307.8108	Zinc Forming
307.8109	Zirconium-Hafnium Forming
307.8110	Metal Powders

## 307.APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R70-5, March 31, 1971; amended in R70-8/R71-14/R71-20, March 7, 1972; amended in R74-3, October 30, 1975; amended in R74-15/R74-16 at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17 at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21 at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5/R82-10 at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004; amended in R05-4/R05-15 at 29 Ill. Reg. 6921, effective April 26, 2005; amended in R06-13 at 30 Ill. Reg. 17811, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 18986, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1936, effective February 4, 2013; amended in R16-9 at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART X: STEAM ELECTRIC POWER GENERATING

**Section 307.3301 Steam Electric Power Generating**

- a) Applicability. This Section applies to discharges resulting from operation of a generating unit by an establishment ~~whose engaged primarily in the~~ generation of electricity ~~is the predominant source of revenue or principal reason for operation, distribution and whose generation of electricity sale that~~ results primarily from a process utilizing fossil-type fuel (coal, oil, or gas), fuel derived from fossil fuel (e.g., petroleum coke, synthesis gas), or nuclear fuel in conjunction with a thermal cycle employing the steam water system as the thermodynamic medium. This Section applies to discharges associated with both the combustion turbine and steam turbine portions of a combined cycle generating unit.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 423.11 ~~(2016)(2012)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 423.16 ~~(2016)(2012)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

discharge of any contaminant to a POTW in violation of such standards.

d) New sources.

- 1) The Board incorporates by reference 40 CFR 423.17 ~~(2012)~~(2016). This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- 3) "New source" means any building, structure, facility, or installation the construction of which commenced after October 14, 1980.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
310.106	Amendment
310.107	Amendment
310.110	Amendment
310.605	Amendment
310.611	Amendment
310.612	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 310 are a single segment of the docket R16-9 rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R16-9 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 307. A comprehensive description is contained in the Board's opinion and order of October 6, 2016, proposing amendments in docket R16-9, which opinion and order is available from the address below.

Specifically, the amendments to Part 310 implement segments of the federal amendments of October 22, 2015. The amendments add the NPDES Electronic Reporting Rule to the Illinois wastewater pretreatment regulations. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R16-9 which list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-9.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State mandates Act [30 ILCS 805/3(b) (2012)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R16-9 and be addressed to:

John T. Therriault, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference docket R16-9:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

312/814-6924

michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's website at <http://www.ipcb.state.il.us>.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2012)].

14) Regulatory Agenda on which this Rulemaking was Summarized: 39 Ill. Reg. 15622; December 4, 2015

The full text of the Proposed Amendments begins on the next page:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARDPART 310  
PRETREATMENT PROGRAMS

## SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.106	Electronic Reporting
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source
310.112	Significant Industrial User

## SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Local Limits Developed by POTW
310.211	Status of Local Limits
310.220	Categorical Standards
310.221	Source Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution Prohibited as a Substitute for Treatment
310.233	Combined Waste Stream Formula

## SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits
310.311	Demonstration of Consistent Removal
310.312	Provisional Credits
310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

## SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification
310.443	Revocation
310.444	Appeal

## SUBPART E: POTW PRETREATMENT PROGRAMS

Section

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval
310.503	Incorporation of Approved Programs in Permits
310.504	Incorporation of Compliance Schedules in Permits
310.505	Reissuance or Modification of Permits
310.510	Pretreatment Program Requirements
310.511	Receiving Electronic Documents
310.521	Program Approval
310.522	Contents of Program Submission
310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
310.543	Agency Decision
310.544	USEPA Objection
310.545	Notice of Decision
310.546	Public Access to Submission
310.547	Appeal

## SUBPART F: REPORTING REQUIREMENTS

Section	
310.601	Definition of Control Authority (Repealed)
310.602	Baseline Report
310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
310.605	Periodic Reports on Compliance
310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
310.611	Requirements for Non-Categorical Standard Users
310.612	Annual POTW Reports
310.613	Notification of Changed Discharge
310.621	Compliance Schedule for POTWs
310.631	Signatory Requirements for Industrial User Reports
310.632	Signatory Requirements for POTW Reports
310.633	Fraud and False Statements
310.634	Recordkeeping Requirements
310.635	Notification of Discharge of Hazardous Waste

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 310.636 Annual Certification by Non-Significant Categorical Users  
310.637 Receiving Electronic Documents

## SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

- Section  
310.701 Definition of Requester  
310.702 Purpose and Scope  
310.703 Criteria  
310.704 Fundamentally Different Factors  
310.705 Factors that are Not Fundamentally Different  
310.706 More Stringent State Law  
310.711 Application Deadline  
310.712 Contents of FDF Request  
310.713 Deficient Requests  
310.714 Public Notice  
310.721 Agency Review of FDF Requests  
310.722 USEPA Review of FDF Requests

## SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

- Section  
310.801 Net/Gross Calculation

## SUBPART I: UPSETS

- Section  
310.901 Definition  
310.902 Effect of an Upset  
310.903 Conditions Necessary for an Upset  
310.904 Burden of Proof  
310.905 Reviewability of Claims of Upset  
310.906 User Responsibility in Case of Upset

## SUBPART J: BYPASS

- Section  
310.910 Definitions  
310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 310.912 Notice  
310.913 Prohibition of Bypass

## SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

- Section  
310.920 General  
310.921 Substantial Modifications Defined  
310.922 Approval Procedures for Substantial Modifications  
310.923 Approval Procedures for Non-Substantial Modifications  
310.924 Incorporation of Modifications into the Permit

## SUBPART L: FEDERAL PROJECT XL AGREEMENTS

- Section  
310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL

AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART A: GENERAL PROVISIONS

**Section 310.106 Electronic Reporting**

The submission of any document pursuant to any provision of this Part as an electronic document in lieu of a paper document is subject to this Section.

a) General Federal Requirements for Electronic Reporting.

1a) Scope and Applicability.

A1) USEPA has established standards for the submission of electronic documents under federally authorized programs. USEPA requires adherence to these standards for all electronic submissions to USEPA and the authorized State, when electronic submissions are authorized by USEPA. The USEPA, the Board, ~~or~~ the Agency, or the Control Authority may allow for the submission of electronic documents in lieu of paper documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

iA) To USEPA directly under 40 CFR 127~~Title 40 of the Code of Federal Regulations~~; or

iiB) To the Board, the Agency, or the Control Authority pursuant to any provision of this Part or 35 Ill. Adm. Code 307702 through 705, 720 through 728, 730, 733, 738, or 739.

B2) Electronic document submission under this Section can occur only as follows:

iA) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

- ~~iiB)~~ For submissions of documents to the State or the Control Authority, submissions may occur only into an electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 310.107, and USEPA has not withdrawn its approval of the system in writing under the following circumstances:
- ~~i)~~ As to any existing electronic document receiving system (i.e., one is use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board, the Agency, or the Control Authority to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;
- ~~ii)~~ As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board, the Agency, or the Control Authority may use that system until USEPA disapproves its use in writing; or
- ~~iii)~~ The Board, the Agency, or the Control Authority may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 C.F.R. 3.1000, so long as the system complies with 40 C.F.R. 3.2000, incorporated by reference in Section 611.102(e), and USEPA has not withdrawn its approval of the system in writing.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~C3)~~ This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection ~~(a)(1)(A)(a)(1) of this Section~~:

~~iA)~~ Any document submitted via facsimile;

~~iiB)~~ Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or

~~iiiC)~~ Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements between the parties to the transfer to share data.

~~D4)~~ Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection ~~(a)(1)(B)(ii)(a)(2)(B) of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection ~~(a)(1)(a) of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

~~2b)~~ Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in ~~Section 310.10735 Ill. Adm. Code 611.102(e)~~.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

3e) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection ~~(a)(1)(C)(a)(3) of this Section~~, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:

A1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section ~~310.107611-102(e)~~; and

B2) USEPA has first published a notice in the Federal Register as described in subsection ~~(a)(1)(B)(i)(a)(2)(A) of this Section~~.

BOARD NOTE: Subsection ~~(a)(3)(e) of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

4d) Procedures for submission of electronic documents in lieu of paper documents to the Board, the Agency, or the Control Authority.

A1) The Board, the Agency, or the Control Authority may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/5]. The Control Authority must establish such procedures pursuant to applicable State and local laws.

B2) The Board, the Agency, or the Control Authority may accept electronic documents under this Section only as provided in subsection ~~(a)(1)(B)(ii)(a)(2)(B) of this Section~~.

BOARD NOTE: Subsection ~~(a)(4)(d) of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

5e) Effects of submission of an electronic document in lieu of paper documents.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- A1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- B2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- C3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- D4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection ~~(a)(5)(e) of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

- 6f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
- A1) The Administrative Procedure Act [5 ILCS 100];
- B2) The Freedom of Information Act [5 ILCS 140];
- C3) The State Records Act [5 ILCS 160];
- D4) The Electronic Commerce Security Act [5 ILCS 175];

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- ~~E5~~) The Environmental Protection Act [415 ILCS 5];
  - ~~F6~~) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
  - ~~G7~~) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- ~~7g~~) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1)~~-of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection ~~(a)(7)(g)-of this Section~~ is derived from 40 CFR 3.2(c) ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

BOARD NOTE: ~~Subsection (a) is derived~~~~Derived~~ from 40 CFR 3~~, as added,~~ and 40 CFR 403.8(g) ~~(2016)-(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

b) NPDES Electronic Reporting.

1) Purpose and Scope.

- A) This subsection (b), in conjunction with the NPDES reporting requirements specified elsewhere in this Part, specifies the requirements for:
- i) Electronic reporting of information by NPDES permittees;
  - ii) Facilities or entities seeking coverage under NPDES general permits;
  - iii) Facilities or entities submitting waivers from NPDES permit requirements;
  - iv) Industrial users located in municipalities without approved local pretreatment programs;
  - v) Approved pretreatment programs;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- vi) This subsection (b)(1)(A)(vi) corresponds with 40 CFR 127.1(a)(6), which pertains to subject matter exclusively outside the scope of wastewater pretreatment. This statement maintains structural consistency with the corresponding federal provisions; and
- vii) USEPA and the Agency, to the extent the Agency has received authorization from USEPA to implement the NPDES program. This subsection (b), in conjunction with other segments of this Part, also specifies the requirements for electronic reporting of NPDES information to USEPA by the states, tribes, or territories that have received authorization from USEPA to implement the NPDES program.
- B) To the extent it is authorized to implement a segment of the NPDES program, the Agency must ensure that the required minimum set of NPDES data (appendix A to 40 CFR 127, incorporated by reference in Section 310.107) is electronically transferred to USEPA in a timely, accurate, complete, and nationally-consistent manner fully compatible with USEPA's national NPDES data system.
- C) To the extent that the Secretary of Defense has exempted Department of Defense "critical infrastructure security information" from disclosure under the federal Freedom of Information Act pursuant to 10 USC 130e, the exempted NPDES program data will be withheld from the public. In the instance in which an NPDES program data element for a particular facility is designated as critical infrastructure security information in response to a FOIA request, a separate filtered set of data without the redacted information will be shared with the public; however, all NPDES program data will continue to be provided to USEPA and the Agency under the authorized State NPDES program.
- D) Proper collection, management, and sharing of the data and information listed in appendix A to 40 CFR 127, incorporated by reference in Section 310.107, ensures that there is a timely,

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

complete, accurate, and nationally-consistent set of data about the NPDES program.

BOARD NOTE: Subsection (b)(1) is derived from 40 CFR 127.1 (2016).

- 2) Definitions. For the purposes of this subsection (b), the following terms have the following meanings.

"Initial recipient of electronic NPDES information from NPDES-regulated facilities" or "initial recipient" means the entity (USEPA or Agency, after Illinois is authorized by USEPA to implement the NPDES program) that is the designated entity for receiving electronic NPDES data.

BOARD NOTE: Derived from 40 CFR 127.2(b) (2016). USEPA is the initial recipient for a specific NPDES data group and NPDES program area until USEPA authorizes the State to act as initial recipient for that NPDES data group and NPDES program area.

"Minimum set of NPDES data" means the data and information listed in Table 1 in Appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 127.2(e) (2016). For the purposes of this Part, the only data and information intended are those associated with NPDES Data groups 1 (core NPDES data), 2 (general permit reports), 7 (pretreatment program reports), and 8 (significant industrial user reports).

"NPDES data group" means the group of related data elements identified in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. These NPDES data groups have similar regulatory reporting requirements and have similar data sources.

BOARD NOTE: Derived from 40 CFR 127.2(c) (2016).

"NPDES program," for the purposes of this subsection (b), means the federal pretreatment program adopted by the Board pursuant to Section 13.3 of the Act [415 ILCS 5/13.3] to implement sections 307(b) of the Clean Water Act (42 USC 1307(b)). USEPA can implement the NPDES program or authorize the State to

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

implement the NPDES program ("authorized NPDES program"). Identifying the relevant authority must be done for each NPDES subprogram (e.g., NPDES core program, federal facilities, general permits, and pretreatment).

BOARD NOTE: Derived from 40 CFR 127.2(d) (2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

"NPDES-regulated entity" means any entity regulated by the NPDES program that has a role in the NPDES program, as defined in this subsection (b)(2).

BOARD NOTE: Derived from 40 CFR 127.2(h) (2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

"Program reports" means the information reported by NPDES-regulated entities and listed in Table 1 in Appendix A to 40 CFR 127, incorporated by reference in Section 310.107 (except NPDES data groups 1 and 2).

BOARD NOTE: Derived from 40 CFR 127.2(f) (2016). For the purposes of this subsection (b), the only information intended are those associated with NPDES data groups 7 (pretreatment program reports) and 8 (significant industrial user reports).

BOARD NOTE: Subsection (b)(2) is derived from 40 CFR 127.2 (2016).

3) Data to be Reported Electronically.

A) An NPDES-regulated entity must electronically submit the minimum set of NPDES data for these NPDES reports, as applicable. The following NPDES reports are the source of the minimum set of NPDES data from NPDES-regulated entities:

i) Discharge monitoring reports (as required by USEPA pursuant to 40 CFR 122.41(l)(4)).

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- ii) This subsection (b)(3)(A)(ii) corresponds with 40 CFR 127.11(a)(2), which pertains to sewage sludge/biosolids annual reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
  - iii) Concentrated animal feeding operation annual program reports (as required by USEPA pursuant to 40 CFR 122.42(e)(4)).
  - iv) This subsection (b)(3)(A)(iv) corresponds with 40 CFR 127.11(a)(4), which pertains to municipal separate storm sewer system program reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
  - v) Pretreatment program annual reports (see Section 310.612).
  - vi) Sewer overflow and bypass incident event reports (as required by USEPA pursuant to 40 CFR 122.41(l)(6) and (7)).
  - vii) This subsection (b)(3)(A)(vii) corresponds with 40 CFR 127.11(a)(7), which pertains to cooling water intake structure reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
- B) A facility or entity seeking coverage under or termination from an NPDES general permit must electronically submit the minimum set of NPDES data for the following notices, certifications, and waivers (if such reporting requirements are applicable):
- i) Notice of intent (NOI) to discharge by facilities seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in 40 CFR 122.28(b)(2); and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

ii) Notice of termination (NOT), as described in 40 CFR 122.64.

C) An industrial user located in a municipality without an approved local pretreatment program must electronically submit the minimum set of NPDES data for the following self-monitoring reports (if such reporting requirements are applicable):

i) Periodic reports on continued compliance, as described in Section 310.605; and

ii) Reporting requirements for industrial users not subject to categorical pretreatment standards, as described in Section 310.611.

D) The minimum set of NPDES data for NPDES-regulated facilities is identified in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 127.11 (2016).

4) Signature and Certification Standards for Electronic Reporting. The signatory and certification requirements identified in subsection (a) and Section 310.631 also apply to electronic submissions of NPDES information (see subsection (b)(2)) by NPDES permittees, facilities, and entities subject to this subsection (b).

BOARD NOTE: Subsection (b)(4) is derived from 40 CFR 127.12 (2016).

5) Requirements Regarding Quality Assurance and Quality Control.

A) Responsibility for the quality of the information provided electronically in compliance with this subsection (b) by the NPDES permittees, facilities, and entities subject to this subsection (b) rests with the owners and operators of those facilities or entities. NPDES permittees, facilities, and entities subject to this subsection (b) must use quality assurance and quality control

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

procedures to ensure the quality of the NPDES information submitted in compliance with this subsection (b).

- B) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information in compliance with the data quality requirements specified in subsection (b)(6). NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information unless a waiver is granted in compliance with this subsection (b) (see subsections (b)(7) and (b)(7)(G)).

BOARD NOTE: Subsection (b)(5) is derived from 40 CFR 127.13 (2016).

- 6) Requirements Regarding Timeliness, Accuracy, Completeness, and National Consistency. NPDES permittees, facilities, and entities subject to this subsection (b) must comply with all requirements in this subsection (b) and electronically submit the minimum set of NPDES data in the following nationally-consistent manner:

- A) Timely. Electronic submissions of the minimum set of NPDES data to the appropriate initial recipient, as defined in subsection (b)(2), must be timely.
- i) Measurement Data (including information from discharge monitoring reports, self-monitoring data from industrial users located outside of approved local pretreatment programs, and similar self-monitoring data). The electronic submission of these data is due when that monitoring information is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.
- ii) Program Report Data. The electronic submission of this data is due when that program report data is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- B) Accurate. Electronic submissions of the minimum set of NPDES data must be identical to the actual measurements taken by the owner, operator, or their duly authorized representative;
- C) Complete. Electronic submission of the minimum set of NPDES data must include all required data (see appendix A to 40 CFR 127, incorporated by reference in Section 310.107) and these electronic submissions must be sent to the NPDES data system of the initial recipient, as defined in subsection (b)(2); and
- D) Consistent. Electronic submissions of the minimum set of NPDES data must be compliant with USEPA data standards as set forth in this subsection (b) and in a form (including measurement units) and be fully compatible with USEPA's national NPDES data system.

BOARD NOTE: Subsection (b)(6) is derived from 40 CFR 127.14 (2016).

- 7) Waivers from Electronic Reporting.
  - A) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit the minimum set of NPDES data in compliance with this Section and Section 310.631 unless a waiver is granted in compliance with this subsection (b)(7).
  - B) USEPA or the Board, by an adjusted standard or variance pursuant to Section 28.1 or Sections 35 through 37 of the Act [415 ILCS 5/28.1 or 35-37] and Subpart D or B of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a temporary waiver from electronic reporting in compliance with this subsection (b)(7).
    - i) Each temporary waiver must not extend beyond five years. However, NPDES-regulated entities may re-apply for a temporary waiver. It is the duty of the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) to re-apply

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

for a new temporary waiver. The Board cannot grant a temporary waiver to an NPDES-regulated entity without first receiving a temporary waiver request from the NPDES-regulated entity.

- ii) To apply for a temporary waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for temporary waiver.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- iii) The Board will determine whether to grant a temporary waiver to the extent Illinois is authorized to administer the pertinent NPDES program area. The Board will provide notice to the owner, operator, or duly authorized facility representative submitting a temporary waiver request, in compliance with the requirements of subsection (b)(7)(G).

- iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a temporary waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsections (b)(8) through (b)(7)(G).

- v) An approved temporary waiver is not transferrable.

- C) USEPA or the Board, by an adjusted standard pursuant to section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

permittee, facility, or entity subject to this subsection (b) a permanent waiver from electronic reporting in compliance with this subsection (b)(7) and subsection (b)(12).

- i) A permanent waiver is only available to a facility or entity that is owned or operated by members of a religious community that chooses not to use certain modern technologies (e.g., computers, electricity). The Board cannot grant a permanent waiver to an NPDES-regulated entity without first receiving a permanent waiver request from the NPDES-regulated entity.
- ii) To apply for a permanent waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for permanent waiver.
- iii) An approved permanent waiver is not transferrable.
- iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a permanent waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).

D) The Agency, by a provisional variance pursuant to sections 35 through 37 of the Act [415 ILCS 5/35-37] and Subpart C of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) an episodic waiver from electronic reporting in compliance with this subsection (b)(7). The following conditions apply to an episodic waiver:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

i) No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting.

ii) An episodic waiver is not transferrable.

iii) An episodic waiver cannot last more than 60 days.

BOARD NOTE: Section 36(c) of the Act provides a maximum duration of 45 days for a provisional variance, allowing a single extension possible up to 45 days. No combination of a provisional and an extension can exceed 60 days' total duration under this subsection (b)(7)(D)(iii).

iv) The Agency will decide if the episodic waiver provision allows facilities and entities to delay their electronic submissions or to send hardcopy (paper) submissions. An episodic waiver is only available to a facility or entity in the circumstances listed in subsection (b)(7)(F).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with codification requirements.

E) The following information items must be included in any petition for a temporary or permanent waiver pursuant to subsection (b)(7)(B) or (b)(7)(C):

i) The facility name;

ii) The NPDES permit number (if applicable);

iii) The facility address;

iv) The name, address and contact information for the owner, operator, or duly authorized facility representative;

v) A brief written statement regarding the basis for claiming such a temporary waiver; and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- vi) Any other information required by the Act [415 ILCS 5] or Chapter I of Title 35 of the Illinois Administrative Code.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- F) A temporary waiver is limited to the following circumstances:

- i) A large-scale emergency involving catastrophic circumstances beyond the control of the facility, such as a force of nature (e.g., a hurricane, flood, fire, or earthquake) or other national disaster. The Agency must make the determination if an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.
- ii) A prolonged electronic reporting system outage (i.e., an outage longer than 96 hours). The Agency must make the determination if an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with codification requirements.

- G) Procedural Requirements for Waivers.

- i) USEPA requires that the Board grant or deny a request for temporary or permanent waiver from electronic reporting in writing within 120 days of receiving the request.

BOARD NOTE: Subsection (b)(7)(G)(i) is derived from 40 CFR 127.24(a) and (b) (2016).

- ii) The Agency must provide notice of an episodic waiver individually or through means of mass communication

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

when an episodic waiver is available. The notice must state the facilities and entities that may use the episodic waiver, the likely duration of the episodic waiver, and any other directions regarding how facilities and entities should provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the Agency or USEPA, as the initial recipient. No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting. The Agency, when granting the episodic waiver, must determine whether to allow facilities and entities to delay their electronic submissions for a short time (i.e., no more than 40 days) or to have the facilities and entities send hardcopy (paper) submissions.

BOARD NOTE: Subsection (b)(7)(G)(ii) is derived from 40 CFR 127.24(d) (2016).

- iii) The Agency must electronically transfer to USEPA the minimum set of NPDES data (as defined in Section 310.106(b)(2)) that it receives from a permittee, facility, or entity that has received a waiver pursuant to this subsection (b)(7).

BOARD NOTE: Subsection (b)(7)(G)(iii) is derived from 40 CFR 127.24(c) (2016).

BOARD NOTE: Subsections (b)(7)(A) through (b)(7)(F) are derived from 40 CFR 127.15 (2016).

- 8) Implementation of electronic reporting requirements for NPDES permittees, facilities, and entities subject to this subsection (b).
- A) Scope and schedule. An NPDES permittee, facility, or entity subject to this subsection (b), with the exception of those covered by waivers under subsection (b)(7), must electronically submit the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

following NPDES information (reports, notices, waivers, and certifications) after the start dates listed in the following table.

<u>NPDES information</u>	<u>Start dates for electronic submissions</u>
<u>General Permit Reports Notices of Intent to discharge, Notices of Termination, and other Waivers</u>	<u>December 21, 2020.</u>
<u>Discharge Monitoring Reports</u>	<u>December 21, 2016.</u>
<u>POTW Pretreatment Program Annual Reports (see Section 310.612)</u>	<u>December 21, 2020.</u>
<u>Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs (see Sections 310.605 and 310.611)</u>	<u>December 21, 2020.</u>

- B) Electronic reporting standards. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) in compliance with this Section and Section 310.631.
- C) Initial recipient. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) to USEPA Region 5, the Control Authority, the Approval Authority, or the initial recipient (as identified pursuant to 40 CFR 127.27 and defined in subsection (b)(2)). USEPA was to identify and publish the initial recipient on a USEPA website and in the Federal Register, by state and by NPDES data group (see subsection (b)(7)).

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

BOARD NOTE: The procedure by which USEPA determines the initial recipient is 40 CFR 127.27. That procedure provides that USEPA is the initial recipient when the State has not gained authorization from USEPA or has failed to fulfill the requirements.

- D) Standards for NPDES-Regulated Entities with Electronic Reporting Waivers. An NPDES permittee, facility, or entity subject to this subsection (b) that has received a waiver from electronic reporting must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the Agency or initial recipient (see subsection (b)(7)).

BOARD NOTE: Subsection (b)(8) is derived from 40 CFR 127.16 (2016).

- 9) Inclusion of Electronic Reporting Requirements in NPDES Permits. All permits issued by the Agency must contain permit conditions requiring compliance with the electronic reporting requirements in this Section. An NPDES-regulated facility that already has an electronic reporting requirement in its permit that meets the requirements in this Section must continue its electronic reporting to the initial recipient.

BOARD NOTE: Subsection (b)(9) is derived from 40 CFR 127.26(f) (2016).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 310.107 Incorporations by Reference**

- a) The following publications are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA document number EPA-830-B-94-001), available from National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>, referenced in Section 310.320.

BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994).

Standard Industrial Classification Manual (1987) (document no. PB87-100012) (referred to as "1987 SIC Manual"), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search through the U.S. Department of Labor, at [http://www.osha.gov/pls/imis/sic\\_manual.html](http://www.osha.gov/pls/imis/sic_manual.html). In 1997, the federal Office of Management and Budget (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at <http://www.naics.com>. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

40 CFR 2.302 ~~(2014)~~(2016) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 ~~(2014)~~(2016) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 ~~(2014)~~(2016) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 ~~(2014)~~(2016) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

40 CFR 3.2000 ~~(2016)~~(2014) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 ~~(2016)~~(2014) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 ~~(2016)~~(2014) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) ~~(2016)~~(2014) (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

[Appendix A to 40 CFR 127 \(2016\) \(Minimum Set of NPDES Data\), referenced in 35 Ill. Adm. Code 310.106.](#)

[BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program \(NPDES data groups 1, 2, 3, 7, and 8\) are intended.](#)

40 CFR 136 ~~(2016)~~(2014), ~~as amended at 79 Fed. Reg. 49001 (Aug. 19, 2014)~~ (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 ~~(2016)~~(2014) (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 ~~(2016)~~(2014) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) ~~(2016)~~(2014) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 ~~(2016)~~(2014) (Net/Gross Calculation), referenced in Section 310.801.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Appendix D to 40 CFR 403 ~~(2016)(2014)~~ (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 ~~(2016)(2014)~~ (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 ~~(2016)(2014)~~ (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 ~~(2015)(2013)~~), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. ~~(2014)(2013)~~), referenced in Section 310.110.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) ~~(2014)(2013)~~), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) ~~(2014)(2013)~~), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) ~~(2014)(2013)~~), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 ~~(2014)(2013)~~), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4) ~~(2014)(2013)~~), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) ~~(2014)(2013)~~), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 ~~(2014)(2013)~~), referenced in Section 310.510.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a) ~~(2014)(2013)~~, referenced in Section 310.510.

- d) This Part incorporates no future editions or amendments.

BOARD NOTE: The Board has located all of the incorporations by reference for the purposes of this Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307 in this Section to aid future review and updates. The Board has located the incorporations by reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the segments appropriate to each individual categorical standard. This aids future review and updates of the categorical standards.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 310.110 Definitions**

The following definitions, derived from the general definitions of 40 CFR 401.11 and the pretreatment-specific definitions of 40 CFR 403.3, apply for the purposes of this Part:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

BOARD NOTE: The Board has consistently rendered "Director," as defined in corresponding 40 CFR 403.3(g), as "Agency" for all functions within the Agency's statutory authority and USEPA has not clearly reserved the function to itself.

"Approval Authority" means the Agency after USEPA has approved the Illinois wastewater pretreatment program. "Approval Authority" means USEPA prior to USEPA approval of the Illinois wastewater pretreatment program.

BOARD NOTE: Derived from 40 CFR 403.3(c) ~~(2016)(2005)~~.

"Approved POTW pretreatment program" or "program" or "POTW pretreatment program" means a program administered by a POTW that has been approved by USEPA, pursuant to 40 CFR 403.11, or the Agency in accordance with Sections 310.541 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.3(d) ~~(2016)(2005)~~.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Authorization to discharge" means an authorization issued to an industrial user by a POTW that has an approved pretreatment program. The authorization may consist of a permit, license, ordinance, or other mechanism as specified in the approved pretreatment program.

BOARD NOTE: The Board added this term to distinguish a "pretreatment permit," which is an equivalent mechanism issued by the Agency.

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 310.201(a) and (c) and 310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD NOTE: Derived from 40 CFR 403.3(e) (2016), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Blowdown" means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

BOARD NOTE: Derived from 40 CFR 401.11(p) (2016)(2005).

"Board" means the Illinois Pollution Control Board.

BOARD NOTE: The Board has consistently rendered "Director," as defined in corresponding 40 CFR 403.3(g), as "Board" for all functions within the Board's statutory authority and USEPA has not clearly reserved the function to itself.

"CWA" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 USC 1251 et seq), incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(b) (2016)(2005).

"Control Authority " refers to the appropriate of the following:

The POTW, if the POTW's pretreatment program submission has been approved by the Agency, in accordance with the requirements of Section 310.541310.540 through 310.546 or by USEPA in accordance with 40 CFR 403.11; or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

The Approval Authority Agency, if no pretreatment program the submission has yet not been approved.

BOARD NOTE: Derived from 40 CFR 403.3(f) (2016)(2005), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Existing source" means any building, structure, facility, or installation, from which there is or may be a discharge of pollutants, the construction of which occurred prior to the date that would qualify the building, structure, facility, or installation for definition as a "new source," as defined in Section 310.111.

BOARD NOTE: The Board added this definition of a fundamental term that is used throughout the categorical standards to determine the applicability of those standards.

"Indirect discharge" or "discharge"~~"Discharge"~~ means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA (33 USC 1317(b), (c), or (d)), incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(i) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Industrial user" or "user"~~"User"~~ means a source of indirect discharge. ~~As used in this Part, an industrial user includes any person who meets any of the following criteria:~~

~~The person discharges toxic pollutants, as defined by 35 Ill. Adm. Code 307.1005;~~

~~The person is subject to a categorical standard adopted or incorporated by reference in 35 Ill. Adm. Code 307;~~

~~The person discharges more than fifteen percent of the total hydraulic flow received by the POTW treatment plant;~~

~~The person discharges more than fifteen percent of the total biological loading of the POTW treatment plant as measured by the five-day biochemical oxygen demand;~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~The person has caused pass through or interference; or~~

~~The person has presented an imminent endangerment to the health or welfare of persons.~~

BOARD NOTE: Derived from 40 CFR 403.3(j) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Industrial wastewater" means ~~the spent or used water~~~~waste of a liquid nature~~ discharged by an industrial user to a sewer tributary to a POTW ~~that contains dissolved or suspended matter.~~

BOARD NOTE: The Board added this definition based on the definition of "wastewater" in "Terms of Environment," EPA 175-B-97-001 (Dec. 1997), USEPA, Communications, Education, and Public Affairs.

"Interference" means a discharge, alone or in conjunction with a discharge or discharges from other sources, for which both of the following is true:

The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

As a result of the inhibition of disruption, the discharge is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with applicable laws and permits issued under these laws, including 33 USC 405 and 40 CFR 503 (federal standards for sewage sludge use and disposal) and State standards relating to sludge use and disposal, 42 USC 6901 et seq. (the federal Resource Conservation and Recovery Act) (hazardous waste and municipal solid waste disposal requirements) and 35 Ill. Adm. Code: Subtitle G derived from the federal solid waste and hazardous waste management standards, 42 USC 7401 et seq. (the federal Clean Air Act) and 35 Ill. Adm. Code: Subtitle B derived from the federal Clean Air Act standards, and 53 USC 2601 et seq. (the federal Toxic Substances Control Act) or any Illinois requirements relating to toxic substances, and 33 USC 1401 et seq. (the federal Marine Protection, Research, and Sanctuaries Act)any sludge requirements.

BOARD NOTE: Derived from 40 CFR 403.3(k) ~~(2016)(2005), as renumbered at~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Municipal sewage" ~~means wastes (mostly liquid) originating from a community, which may be composed of domestic wastewaters and industrial discharges is sewage treated by a POTW exclusive of its industrial component.~~

~~BOARD NOTE: The Board added this definition based on the definition of "municipal sewage" in "Terms of Environment," EPA 175-B-97-001 (Dec. 1997), USEPA, Communications, Education, and Public Affairs.~~

"Municipal sludge" ~~means semi-liquid residue remaining from treatment of municipal wastewater is sludge produced by a POTW treatment works.~~

~~BOARD NOTE: The Board added this definition based on the definition of "municipal sludge" in "Terms of Environment," EPA 175-B-97-001 (Dec. 1997), USEPA, Communications, Education, and Public Affairs.~~

"Municipality." See "unit of local government."

~~BOARD NOTE: The Board added this definition to redirect attention to the term "unit of local government," which is the term applied under Illinois law.~~

"New source" means a new source as defined in Section 310.111.

~~BOARD NOTE: Derived from 40 CFR 401.11(e)401.11(e) and 403.3(m) (2016)(2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

~~BOARD NOTE: Derived from 40 CFR 401.11(n) (2016)(2005).~~

"Noncontact cooling water pollutants" means pollutants present in noncontact cooling waters.

~~BOARD NOTE: Derived from 40 CFR 401.11(o) (2016)(2005).~~

"NPDES permit" means a permit issued to a POTW pursuant to Section 402 of the CWA, or Section 12(f) of the Act [415 ILCS 5/12(f)] and Subpart A of 35 Ill. Adm. Code 309.

~~BOARD NOTE: Derived from 40 CFR 403.3(n) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

~~"O and M" means operation and maintenance.~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Pass through" means a discharge of pollutants that exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

BOARD NOTE: Derived from 40 CFR 403.3(p) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Person" means an individual, corporation, partnership, association, State, "unit of local government," commission, or any interstate body. This term includes the United States government, the State of Illinois, and their political subdivisions.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2016)(2005)~~ and 33 USC 1362(5) ~~(2014)~~.

"Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).

"Pollutant" means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into a sewer.

BOARD NOTE: Derived from 40 CFR 401.11(f) ~~(2016)(2005)~~.

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

BOARD NOTE: Derived from 40 CFR 401.11(g) ~~(2016)(2005)~~.

"POTW treatment plant" means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater.

BOARD NOTE: Derived from 40 CFR 403.3(r) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by Section 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Section 310.233.

BOARD NOTE: Derived from 40 CFR 403.3(s) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Pretreatment permit" means an authorization to discharge to a sewer that is issued by the Agency as the Control Authority.

BOARD NOTE: The Board added this term to distinguish an "authorization to discharge," which is an equivalent mechanism issued by a POTW.

"Pretreatment ~~requirement~~requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard, ~~imposed on an industrial user~~.

BOARD NOTE: Derived from 40 CFR 403.3(t) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to ~~Sections~~Section 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits ~~pursuant to Section 310.211~~ that are a part of an approved pretreatment program, as provided in Section 310.211.

BOARD NOTE: Derived from 40 CFR 403.3(l) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

BOARD NOTE: Derived from 40 CFR 401.11(q) ~~(2016)(2005)~~.

"Process wastewater pollutants" means pollutants present in process wastewater.

BOARD NOTE: Derived from 40 CFR 401.11(r) ~~(2016)(2005)~~.

~~"Project XL" means the federal Project for eXcellence and Leadership or a federally approved facility or community based regulatory reinvention (XL) pilot project, as such are described in the Federal Register notices of May 23, 1995 (60 Fed. Reg. 27282) and November 1, 1995 (60 Fed. Reg. 55569).~~

"Publicly owned treatment works" or "POTW" means a "treatment works" that is owned by the State of Illinois or a "unit of local government." This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "unit of local government" that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

BOARD NOTE: Derived from 40 CFR 403.3(q) ~~(2016)(2005)~~, as renumbered at ~~70 Fed. Reg. 60134 (Oct. 14, 2005)~~.

"Schedule of compliance" means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2016)(2005)~~ and 33 USC 1362(17).

"Significant industrial user" means significant industrial user as defined in Section 310.112.

BOARD NOTE: Derived from 40 CFR 403.3(v) ~~(2016)(2005)~~, as renumbered and amended at ~~70 Fed. Reg. 60134 (Oct. 14, 2005)~~.

"Sludge requirements" means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits), ~~the federal Toxic Substances Control Act (15 USC 2601), or the federal~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~Marine Protection, Research and Sanctuaries Act (33 USC 1401),~~ Section 39(b) of the Act (NPDES Permits) [415 ILCS 5/39(b)], ~~and~~ Section 405(b) of the federal Clean Water Act (federally-imposed sludge use and management requirements), ~~and 40 CFR 501 and 503.~~

BOARD NOTE: Derived from 40 CFR 403.3(k)(2) (2005), ~~as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005),~~ and 403.7(a) (2016)(2005).

"Submission" means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.

BOARD NOTE: Derived from 40 CFR 403.3(w) (2016)(2005), ~~as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Treatment works" is as defined in 33 USC 1292(2), incorporated by reference in Section ~~310.107~~310.107(e). It includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal or industrial wastewater to implement 33 USC 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment.

BOARD NOTE: Derived from 40 CFR 403.3(q) (2016)(2005), ~~as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) and 33 USC 1292(2).~~

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, ~~having jurisdiction over disposal of sewage.~~ Unit of local government includes, but is not limited to, municipalities, and sanitary districts.

BOARD NOTE: Derived from 40 CFR 401.11(m) (2016)(2005) and 33 USC 1362(4).

"USEPA" means the United States Environmental Protection Agency.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: REPORTING REQUIREMENTS

**Section 310.605 Periodic Reports on Compliance**

- a) ~~After Any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user as defined in Section 310.110),~~ after the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

compliance date of ~~such~~ pretreatment standard, or after commencement of the discharge into the POTW, in the case of a new source, any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user, as defined in Section 310.100)~~after commencement of the discharge into the POTW~~, must submit to the Control Authority a report indicating the nature and concentration of pollutants in the effluent that are limited by the categorical pretreatment standards. The industrial user must submit the report during the months of June and December, unless the Control Authority or the pretreatment standard requires~~required~~ more frequent reporting~~frequently in the pretreatment standard or by the Control Authority~~, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. ~~When~~In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may alter the months during which the reports required by this subsection (a) are to be submitted. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if it determines that the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
- 1) The Control Authority may authorize a waiver only where it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;

- 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;
- 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in Section ~~310.107310.107(b)~~, with the lowest minimum detection level for that pollutant was used in the analysis;
- 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after expiration of the waiver;
- 5) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);

- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user must immediately comply with the monitoring requirements of subsection (a) of this Section or other more frequent monitoring requirements imposed by the Control Authority; and it must notify the Control Authority; and
  - 7) This subsection (b) does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- c) Where the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) of this Section must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.
  - d) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Section 310.230, the report required by subsection (a) of this Section must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) of this Section must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e) ~~(2016)(2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 310.611 Requirements for Non-Categorical Users**

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis performed in the period covered by the report and in accordance with the techniques described in 40 CFR 136, incorporated by reference at Section 310.107. For the purposes of this Section, "significant non-categorical industrial user" means a significant industrial user that is not subject to categorical pretreatment standards. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(h) ~~(2016)(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 310.612 Annual POTW Reports**

POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. The report must include, at a minimum, the applicable required data in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. The report required by this Subpart F must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2020, all annual reports submitted in compliance with this Subpart F must be submitted electronically by the POTW pretreatment program to the Approval Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106 following:

- a) ~~An updated list of the POTW's industrial users, including their names and addresses or a list of deletions and additions keyed to a previously submitted list. The POTW must provide a brief explanation of each deletion. This list must identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list must~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~indicate which industrial users are subject to more stringent than the categorical pretreatment standards. The POTW must also list the industrial users that are subject only to local requirements. The list must also identify industrial users that are subject to categorical pretreatment standards and which are subject to reduced reporting requirements under Section 310.605(c), and the list must identify which industrial users are non-significant categorical industrial users.~~

- ~~b) A summary of the status of industrial user compliance over the reporting period.~~
- ~~e) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period.~~
- ~~d) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Agency.~~

BOARD NOTE: Derived from 40 CFR 403.12(i) ~~(2016)(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Health Facilities and Services Operational Rules
- 2) Code Citation: 77 Ill. Adm. Code 1130
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1130.120	Amendment
1130.130	Amendment
1130.140	Amendment
1130.150	Amendment
1130.215	Amendment
1130.230	Amendment
1130.240	Amendment
1130.250	Amendment
1130.310	Amendment
1130.410	Amendment
1130.500	Amendment
1130.520	Amendment
1130.525	New Section
1130.550	Amendment
1130.560	Amendment
1130.570	Amendment
1130.580	Amendment
1130.590	Amendment
1130.610	Amendment
1130.620	Amendment
1130.635	Amendment
1130.640	Amendment
1130.650	Amendment
1130.655	Amendment
1130.660	Amendment
1130.670	Amendment
1130.680	Amendment
1130.710	Amendment
1130.720	Amendment
1130.730	Amendment
1130.740	Amendment
1130.750	Amendment
1130.760	Amendment
1130.770	Amendment

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

1130.775	Amendment
1130.780	Amendment
1130.790	Amendment
1130.810	Amendment
1130.910	Amendment
1130.920	Amendment
1130.930	Amendment
1130.940	Amendment
1130.950	Amendment
1130.980	Amendment
1130.990	Amendment
1130.995	Amendment
1130.1020	Amendment
1130.1030	Amendment
1130.1040	Amendment
1130.1080	Amendment
1130.1130	Amendment
1130.APPENDIX A	Amendment

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]
- 5) Effective Date of Rules: October 14, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments published in the *Illinois Register*: 39 Ill. Reg. 16277; December 28, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 1130.140, add "When a project requires an applicant to obtain a license, the project is not considered complete until the facility is licensed."to the end of the definition of "Completion Date".

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Delete the added text in Section 1130.230(h) relating to exemption and permit application-processing fees and reinstate the stricken text. This maintains the current application-processing fees for exemptions and permits.

Add "at or" before "above \$1,250,000" in Section 1130.230(h)(2)(C)(ii).

Delete "1,000" and reinstate "500" in Section 1130.230(h)(5). This maintains the current application-processing fees for permit renewals.

In Section 1130.230(h)(5) delete "If" in the beginning of the second to last sentence.

Reinstate the stricken text in Section 1130.410(d) and change the subsection label from "(d)" to "(c)". This maintains the current eligibility for applicants proposing neonatal intensive care projects to receive an exemption.

In Section 1130.520(b)(1)(B), remove italics from "has the qualifications, background and character to adequately provide a proper standard or health service for the community".

In Section 1130.520(b)(1)(B), delete "[20 ILCS 3960/6]".

In Section 1130.520(b)(1)(D), remove italics from "name of".

In Section 1130.520(b)(1)(E), remove italics from "list of" and add a comma after "transaction".

In Section 1130.520(c) delete "form" after "standard notice".

In Section 1130.525(b), change "77 Ill. Adm. Code 1110.130, the application shall" to "77 Ill. Adm. Code 1110.130. The application shall".

In Section 1130.560(a)(1), remove italics from the phrases "The Chairman shall act", "of a health care facility", "deems the application" and "that the Board consider the application".

In Section 1130.570(b)(2), delete the second period at the end of the last sentence.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

In Section 1130.570(c)(2), add "in which the applicant submitted key terms of the transaction" after "change of ownerships", which is located at the beginning of the sentence.

In Section 1130.570(c)(2), change "The Board must receive" to "The exemption holder must submit".

In Section 1130.570(e), change "An" at the beginning of the sentence to "When an applicant has submitted key terms of the transaction rather than final transaction documents, an".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemaking pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1130.140	Amendment	40 Ill. Reg. 13795; October 7, 2016
1130.531	New Section	40 Ill. Reg. 13795; October 7, 2016

- 15) Summary and Purpose of Rulemaking: Changes as a result of Public Act 99-154: Expanding projects eligible for an exemption to include those to discontinue a category of service or to close a health care facility that is not maintained by the State, a State agency or State department; removing the requirement that applicants seeking a change of ownership have to submit a final transaction document when submitting their application for review. Instead, allowing these applicants the option to submit the key terms of the transaction. Also, for these applicants, making the exemption invalid if the change of ownership is not completed according to the key terms submitted in the application; reducing the notice-publication period for change of ownership applications from three days to one and requiring applicants to pay for the cost of the publication; granting the HFSRB Chair authority to grant an exemption for a change of ownership among related persons within 45 days, as well as the discretion to refer these applications to the entire Board if there is a conflict of interest or for other good cause; adding the definition of State Board Staff Reports; adding specialized mental health rehabilitation facilities to the type of facilities that are subject to the Certificate of Need process; and adding skilled and intermediate-care facilities licensed under the ID/DD Community Care

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Act or the MC/DD Act to the type of facilities that are subject to the Certificate of Need process.

Remove the language related to permit acceptance agreements. The Board will continue using permit letters to notify applicants that their applications were approved and of applicants' obligations for maintaining valid permits.

Remove the requirement that HFSRB staff notify applicants in writing if the applicants have not paid the full application-processing fee. HFSRB staff will continue to notify applicants of an outstanding balance, but staff will not be required to do so in writing.

In cases where HFSRB extends the financial commitment period, requiring permit holders to submit financial commitment reports no later than the due date of the next annual report immediately following the new financial commitment date.

Repeat language from the Health Facilities Planning Act regarding the fine amount for permit holders who fail to comply with post-permit reporting requirements.

Update the capital expenditure minimum to reflect the current threshold.

Clarify existing language.

16) Information and questions regarding these adopted rules shall be directed to:

Jeannie Mitchell  
Assistant General Counsel  
Health Facilities and Services Review Board  
69 W. Washington Street, Suite 3501  
Chicago IL 60602

312/814-6226  
e-mail: Jeannie.Mitchell@illinois.gov

The full text of the Adopted Amendments begins on the next page:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES AND SERVICES REVIEW OPERATIONAL RULES

SUBPART A: AUTHORITY

Section

- 1130.110 Statutory Authority/Applicability
- 1130.120 Introduction
- 1130.130 Purpose
- 1130.140 Definitions
- 1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section

- 1130.210 Persons and Facilities Subject to the Act
- 1130.215 Health Care Facilities Subject to the Act
- 1130.220 Necessary Parties to the Application for Permit or Exemption
- 1130.230 Fees
- 1130.240 Reporting and Notification Requirements
- 1130.250 HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section

- 1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section

- 1130.410 Projects or Transactions Exempt from Permit Requirement

SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section

- 1130.500 General Requirements for Exemptions
- 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)
- 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
- 1130.525 Requirements for Exemptions Involving the Discontinuation of a Health Care Facility or Category of Service
- 1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
- 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)
- 1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
- 1130.540 Requirements for Exemptions Involving Discontinuation (Repealed)
- 1130.541 Requirements for Exemptions for Combined Facility Licensure (Repealed)
- 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
- 1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
- 1130.544 Requirements for Exemption for the Addition of Dialysis Stations (Repealed)
- 1130.550 Agency Processing of an Application for Exemption
- 1130.560 State Board Action
- 1130.570 Validity of an Exemption and Reporting Requirements
- 1130.580 Relinquishment of an Exemption
- 1130.590 Revocation of an Exemption

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW  
AND PROCESSING OF APPLICATIONS FOR PERMIT

## Section

- 1130.610 Duration of the Review Period and Time Frames
- 1130.620 Technical Assistance, Classification, Completeness Review, and Review Procedures
- 1130.630 HFSRB Staff Actions During the Review Period
- 1130.635 Additional Information Provided During the Review Period
- 1130.640 Extension of the Review Period
- 1130.650 Modification of an Application
- 1130.655 HFSRB Consideration and Action

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1130.660 Approval of an Application  
 1130.670 Intent to Deny an Application  
 1130.680 Denial of an Application

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

## Section

- 1130.710 Validity of Permits  
 1130.720 Financial ~~Commitment~~~~Commitment~~  
 1130.730 Extension of the Financial ~~Commitment~~~~Commitment~~ Period  
 1130.740 Permit Renewal  
 1130.750 Alteration of Post-Permit Projects  
 1130.760 Annual Progress Reports  
 1130.770 Project Completion, Final Realized Costs and Cost Overruns  
 1130.775 Relinquishment of a Permit  
 1130.780 Revocation of a Permit  
 1130.790 Penalties, Fines and Sanctions ~~Mandated in the Illinois Health Facilities Planning Act~~ for Non-compliance with the Act and HFSRB Rules

## SUBPART H: DECLARATORY RULINGS

## Section

- 1130.810 Declaratory Rulings

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

## Section

- 1130.910 Applicability  
 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit  
 1130.930 Notice of Public Hearing on Applications for Permit  
 1130.940 Procedures for Public Hearing on Applications for Permit  
 1130.950 Written Comments on Applications for Permit  
 1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)  
 1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)  
 1130.980 Procedures Concerning Public Hearing for Certificate of Exemption ~~for Change of Ownership~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1130.990 Procedures for Public Hearing and Comment on Proposed Rules  
| 1130.995 Procedures for Written Public Comment on All Other Matters

## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

## Section

- 1130.1010 The Right to an Administrative Hearing and Applicable Rules  
1130.1020 Initiation of a Contested Case (Pleadings)  
1130.1030 Waiver of Hearing  
1130.1040 Parties to Hearings  
1130.1050 Appearance – Right to Counsel  
1130.1060 Prehearing Conferences  
1130.1070 Intervention  
1130.1080 Disqualification of Administrative Law Judge  
1130.1090 Form of Papers  
1130.1100 Service  
1130.1110 Conduct of Hearings  
1130.1120 Discovery  
1130.1130 Motions  
1130.1140 Subpoenas  
1130.1150 Administrative Law Judge's Report and Recommendation  
1130.1160 Proposal for Decision (Repealed)  
1130.1170 Final Decision  
1130.1180 Records of Proceedings  
1130.1190 Miscellaneous  
1130.1200 Copies of Pleadings to be Filed  
1130.1210 Applicability

## 1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013; amended at 38 Ill. Reg. 2869, effective February 1, 2014; amended at 39 Ill. Reg. 6347, effective June 1, 2015; amended at 40 Ill. Reg. 14647, effective October 14, 2016.

## SUBPART A: AUTHORITY

**Section 1130.120 Introduction**

Part 1130 establishes the procedures and requirements for processing and ~~reviewing~~~~review of~~ applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities and Services Review Board (HFSRB). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for ~~submitting~~~~submission of~~ applications for permit or exemption; the HFSRB review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.130 Purpose**

- a) *The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to:*
- 1) *improve the financial ability of the public to obtain necessary health services;*
  - 2) *establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public;*
  - 3) *maintain and improve the provision of essential health care services and*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*increase the accessibility of those services to the medically underserved and indigent;*

- 4) *assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and*
  - 5) *assess the financial burden to patients caused by unnecessary health care construction and modification. [20 ILCS 3960/2].*
- b) Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
- c) The health facilities and services review program shall be administered with the goal of maximizing the efficiency of capital investment and the objectives of:
- 1) Promoting development of more effective methods of delivering health care;
  - 2) Improving distribution of health care facilities and services and ensuring access to needed health care services for the general public, the medically indigent and similar underserved populations;
  - 3) Controlling the increase of health care costs;
  - 4) Promoting planning for health care services at the facility, regional and ~~state~~State levels;
  - 5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and
  - 6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.140 Definitions**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J ~~of this Part~~ and pursuant to the Act.

"Administrator" means the chief executive officer of HFSRB, responsible to the HFSRB Chairman and, through the Chairman, responsible to HFSRB for the execution of its policies and procedures.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], *"Type 'A' violation" means a violation of the Nursing Home Care Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident.* As defined in Section 1-128.5 of the Nursing Home Care Act, *a "Type AA violation" means a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death.* [210 ILCS 45/1-129]

"Affirmation" means a statement, declaration, proclamation, pronouncement or notice made by an applicant regarding the information requirements for an application for exemption, with the understanding that there are still consequences to any matters that are non-compliant with the terms of the exemption issued.

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Alteration" means any revision or change to a project as detailed in the application that occurs after HFSRB ~~issued~~~~issuance of~~ the permit. A completed project cannot be altered. The site of the proposed project or the persons who are the permit holder cannot be altered.

"Applicant" means a person, as defined in the Act, who applies for a permit or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

exemption. See Section 1130.220 to determine what parties are necessary for an application.

"Audit" means the most recent formal examination, correction and official endorsement of financial reports by an independent certified public accountant.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" *means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Unless otherwise interdependent or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]*

"Capital Expenditure Minimum" means the dollar amount or value which would

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

require a permit for capital projects and major medical equipment. Capital expenditure minimums are adjusted annually to reflect the increase in construction costs due to inflation per Section 1130.310. Current capital expenditure minimums are posted on the HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)) and Appendix A.

"Censure" means a formal and public reprimand issued by HFSRB.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" or "**Board Chair**" means the presiding officer of HFSRB.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility that: changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board in its Inventory of Health Care Facilities and Services and Need Determinations found on the Board's website at [www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov), whichever is less, over a 2-year period.* [20 ILCS 3960/5] The two-year period begins on the date the additional beds or stations become operational. (See Section 1130.240(f) for more detail.)

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or *a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.* [20 ILCS 3960/3] Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12-month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including leases.

*"Change of Ownership Among Related Persons" means a transaction in which the parties to the transaction are under common control or ownership before and after the transaction is completed. [20 ILCS 3960/8.5(a)]*

*"Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer. [20 ILCS 3960/3]*

*"Clinical Service Area" means a department or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare or Medicaid Certification, and as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~"Co-applicant" means a person, as defined in the Act, who, together with other persons, applies for a permit or exemption. (See Section 1130.220 to determine what parties are necessary for an application.)~~

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

"Completion Date" or "Project Completion Date" means the date the applicant established by the applicant for the completion of the project, when the permit was approved or renewed in the approval of the permit or subsequent renewal. When a project requires an applicant to obtain a license, the project is not considered complete until the facility is licensed.

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under the Act.* [20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means that a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

having the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

ownership of 50% or more in the property or asset;

serving as lessee or sublessee.

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities ( $A + B = C$ ). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives ( $A + B = B$ ). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Date" means, for purposes of 77 Ill. Adm. Code 1130, a ~~time~~ period starting at 12:00:01 a.m. of a specified day and ending at 12:00:01 a.m. the following day.

"Director" means *the Director of the Department of Public Health*. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit or exemption is required prior to a discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation, and has provided documentation of the circumstances and anticipated date of restoration to HFSRB within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by HFSRB that:

a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

HFSRB NOTE: HFSRB may determine that a discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit or exemption prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Emergency Projects" means projects that are *emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined at 77 Ill. Adm. Code 1110.40(a)*. [20 ILCS 3960/12(9)]

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or *the initiation of a category of service as defined by the Board*. [20 ILCS 3960/3]

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

preplanning costs;

site survey and soil investigation fees;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

site preparation costs;

off-site work;

construction contracts and contingencies (including demolition);

capital equipment included in construction contracts;

architectural and engineering fees;

consultants and other professional fees that are related to the project;

capital equipment not in construction contracts;

bond issuance expenses;

net interest expense during construction; and

all other costs that are to be capitalized.

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under *the procedures and requirements of HFSRB regarding issuance of exemptions*. (See Subpart E.) *An exemption shall be approved when all information required by the Board, in accordance with Subpart E, is submitted.* [20 ILCS 3960/6(b)]

"Existing Health Care Facility" means any health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC 1395); or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

is a facility operated by the State of Illinois.

HFSRB NOTE: Projects approved by HFSRB for establishment of a health care facility that have not been deemed complete in accordance with the provisions of this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities and shall be counted against any applicable need estimate.

*"Ex Parte Communication" means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of a pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical Assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2]*

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by HFSRB to approve or deny an application for permit.  
Action taken by HFSRB to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by HFSRB on all matters other than the issuance of a permit.

HFSRB NOTE: The decision is final at the close of business of the HFSRB meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

"Financial Commitment" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by:

The actual expenditure of 33% or more of the total project cost; or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means. (See Section 1130.760 (Annual Progress Reports).)

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimony; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report for submittal to HFSRB.

"HFSRB" or "State Board" or "Board" means the Illinois Health Facilities and Services Review Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act. (See Section 1130.670.)

"Interdependent Components" means components of construction or modification that are architecturally or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.*[20 ILCS 3960/3]

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Inventory" means the HFSRB Inventory of Health Care Facilities and Need Determination created pursuant to Section 12(4) of the Act and found on the Board's website at [www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov).

"Major Construction Project" means:

*Projects for the construction of new buildings;*

*Additions to existing facilities;*

*Modernization projects whose cost is in excess of \$1,000,000 or 10% of the facility's operating revenue, whichever is less; and*

*Such projects as the State Board shall define and prescribe (see Section 1130.310) pursuant to the Act. [20 ILCS 3960/5]*

"Major Medical Equipment" means medical equipment that is used for the provision of medical and other health services and that costs in excess of the capital expenditure minimum, except that this term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the Social Security Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included. [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act (42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final HFSRB action). These changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRB NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Moral Turpitude" means conduct that has an inherent quality of baseness, vileness or depravity with respect to another person or society in general, contrary to the accepted and customary rule of right and duty. Examples include rape, forgery, robbery, arson, counterfeiting and wrongful solicitation.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5(c) of the Act.

"Non-clinical Service Area" means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; ~~newsstands~~~~news stands~~; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]

"Non-substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Notification of HFSRB Action" means the transmittal of HFSRB decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Operational" means that a permit holder is providing the services approved by HFSRB and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained, and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, or Illinois physicians licensed to practice medicine in all its branches, shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act. [20 ILCS 3960/3]

"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by HFSRB and as specified in the Act.

~~"Permit Acceptance Agreement" means a written HFSRB communication to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain the permit.~~

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Project Financial Commitment Date" means the date by which the permit holder is to expend or commit to expend by contract or other legal means at least 33% of the total project cost. (See Section 1130.760 (Annual Progress Reports).)

"Proposal" or "Project" means any proposed construction or modification of a

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

*is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or*

*owns, directly or indirectly, at least 50% of the health care facility; or [20 ILCS 3960/3]*

*is otherwise controlled or managed by one or more health care facilities or controls or manages the health care facility; or*

*otherwise controls or manages the health care facility; or*

*is otherwise, directly or indirectly, under common management or control with one or more health care facilities.*

"Relinquishment of a Permit" means a voluntary and knowing abandonment of a permit or exemption, forsaking all rights associated with that permit or exemption. Once relinquishment is granted by HFSRB, a relinquished permit or exemption is considered null and void. The inventory will be modified, if affected by the permit relinquishment, to the same status as prior to the permit issuance.

"Review Period" means the time from the date an application for permit or exemption is deemed complete by HFSRB staff until HFSRB renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFSRB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and services. It consists of the entire space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

*"State Board Staff Report" means the document that sets forth the review and findings of State Board staff as prescribed by the State Board, regarding applications subject to the Board's jurisdiction. [20 ILCS 3960/3]*

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in 77 Ill. Adm. Code 1110.40(c) and Section 1130.140;

discontinuation as defined in this Part;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFSRB in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to HFSRB as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;

the addition of a specialty not previously approved by HFSRB for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by HFSRB in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

the acquisition, construction, or leasing of space, buildings, or structures for ~~the purpose of~~ providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

"Substantially Complete" means that the application for permit has been determined ready for review, with the understanding that additional information may be needed for clarification during the course of the review period.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

*Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*

*Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*

*Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

"Technical Assistance" means help provided by an employee of HFSRB to a person, a health care facility or the HFSRB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB provided that the communication is *not intended to influence any decision on the application*. Technical Assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file, within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]*

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service (see 77 Ill. Adm. Code 1100.220 for category of service definition) for a period not to exceed one year, due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster). The time period may be extended upon finding that the resumption of facility operation or category of service has proceeded with due diligence and HFSRB approval of the requested extension. The facility administrator shall file notice to HFSRB of a temporary suspension of service, in compliance with the requirements described in Section 1130.240(d).

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.150 Referenced and Incorporated Materials**

- a) The following rules, standards and statutes are referenced in this Part:
  - 1) Federal Statutes:  
Public Health and Welfare (42 USC).

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) State of Illinois Statutes:
- A) Illinois Health Facilities Planning Act [20 ILCS 3960];
  - B) Hospital Licensing Act [210 ILCS 85];
  - C) Ambulatory Surgical Treatment Center Act [210 ILCS 5];
  - D) Nursing Home Care Act [210 ILCS 45];
  - E) Illinois Administrative Procedure Act [5 ILCS 100];
  - F) Alternative Health Care Delivery Act [210 ILCS 3];
  - G) End Stage Renal Disease Facility Act [210 ILCS 62];
  - H) Administrative Review Law [735 ILCS 5/Art. III];
  - I) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];
  - J) Code of Civil Procedure [735 ILCS 5];
  - K) Assisted Living and Shared Housing Act [210 ILCS 9];
  - L) Older Adult Services Act [320 ILCS 42];
  - M) Open Meetings Act [5 ILCS 120];
  - N) ID/DD Community Care Act [210 ILCS 47];
  - O) MC/DD Act [210 ILCS 46];
  - P) Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49].
- 3) State of Illinois Rules:
- A) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Section 1100.220);

- B) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);
- C) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);
- D) Illinois Health and Hazardous Substances Registry (77 Ill. Adm. Code 840).

4) Other referenced materials:

- A) Illinois Executive Order #2006-5;
- B) Rules of the Illinois Supreme Court.

b) Incorporations by Reference

The following materials are incorporated by reference in this Part. All incorporations are as of the date specified and no later editions or amendments are included.

American Institute of Architects  
1735 New York Avenue, N.W.  
Washington D.C. 20006

AIA Document G702, Application and Certificate for Payment  
(1992)

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART B: GENERAL REQUIREMENTS

**Section 1130.215 Health Care Facilities Subject to the Act**

Health care facilities and organizations that are subject to the Act and HFSRB rules include:

- a) *An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) *An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;*
- c) *Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;*
- d) *Skilled and intermediate-care facilities licensed under the ID/DD Community Care Act or the MC/DD Act;*
- e) *Facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013;*
- f) *Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency ~~thereof~~ of this State;*
- g) *Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act;*
- h) *An institution, place, building, or room used for performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility;*
- i) *An institution, place, building, or room used for provision of a health care category of service as defined by the Board at 77 Ill. Adm. Code 1100.220, including, but not limited to, cardiac catheterization and open heart surgery; and*
- j) *An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum. [20 ILCS 3960/~~32~~]*

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.230 Fees**

- a) HFSRB staff shall charge and collect an amount determined by HFSRB and its staff to be reasonable fees for processing of the applications by HFSRB. HFSRB

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*shall set amounts by rule (see subsection (h)). Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act. [20 ILCS 3960/12.2]*

- b) A fee shall be assessed on all matters requiring an application-processing fee (as detailed in other Sections of this Part), except for the following:
  - 1) projects classified as emergency; or
  - 2) projects that are not subject to a fee in accordance with the provisions of Subpart E.
- c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.
- d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by HFSRB staff within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFSRB.
- e) No action shall be taken by HFSRB on any matter requiring an application processing fee for which the total required fee has not been received.
- f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.
- g) Appeal of any required fee amount is to be made to HFSRB, pursuant to Section 1130.810.
- h) Types of Fees
  - 1) Exemption Application Processing Fee  
The exemption application processing fee shall be \$2,500.
  - 2) CON Permit Application Processing Fee

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- A) All applicants, except those with projects that are not subject to a fee, are required to submit an application processing fee. An initial fee deposit of \$2,500 shall accompany each application for permit submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.
- B) HFSRB staff *shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act.* [20 ILCS 3960/12.2]
- C) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows. For each project having a total estimated project cost of:
- i) less than \$1,250,000, the application fee shall be \$2,500;
  - ii) at or above \$1,250,000, the application fee shall be 0.22% of the project costs.
- D) The maximum application fee shall not exceed \$100,000.
- E) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.
- 3) Modification of an Application for Permit
- A) If a modification of an application for permit results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. This Section is applicable with respect to any additional fees required for a modified application.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- B) If a modification results in the need for an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.
- 4) Request for Extension of Financial Commitment
- A) A request for extension shall be assessed a \$500 application-processing fee and is subject to the requirements of this subsection (h).
- B) A request for extension that ~~HFSRB receives~~ ~~is received~~ less than 45 days prior to the permit financial commitment date shall be subject to an additional \$500 late ~~application~~ ~~application~~ processing fee.
- C) ~~HFSRB will not process an extension request until it receives the application-processing fee. If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall not be processed.~~
- 5) Permit Renewal
- A permit renewal request shall be assessed a \$500 application-processing fee and is subject to the requirements of this subsection (h). Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application-processing fee. ~~HFSRB will not process a permit renewal request until it receives the application-processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall not be processed.~~ Any renewal request ~~HFSRB receives~~ ~~received~~ after the completion date is subject to the fines provided in the Act.
- 6) Post-Permit Alterations
- A) An alteration request shall be assessed an application processing fee of \$1,000 and is subject to the requirements of this Section.
- B) If HFSRB does not receive the alteration request at least 45 days before the permit expires, the application will be

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~assessed~~ Alteration requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application-processing fee.

- C) ~~An alteration request will not be processed until HFSRB receives the application-processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for alteration shall not be processed.~~ Any alteration request received after the completion date is subject to the fines provided in the Section 14.1 of the Act and Section 1130.790.

## 7) Relinquishment of a Permit or Exemption

- A) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act and in Section 1130.790.
- B) A request for relinquishment shall be assessed an application processing fee of \$1,000.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.240 Reporting and Notification Requirements**

HFSRB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13]. Information required to be submitted to HFSRB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed-capacity information, notices of hospital reductions in services, and any temporary ~~suspensions~~suspension of service.

- a) Annual Report of Capital Expenditures  
Each health care facility shall submit an annual report of capital expenditures as part of the annual health care facility questionnaires issued by HFSRB. (See Section 5.3 of the Act.)
- b) Health Planning Information  
HFSRB shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the purposes, provisions and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

responsibilities specified in the Act. (See Section 13 of the Act.) These reports may be on an annual or other basis.

- c) **Notice of Hospital Reduction of 50% or More in Health Care Services**  
Each hospital is required to notify *the State Board, the Illinois Department of Public Health, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located*, of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:
- 1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;
  - 2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.
    - A) If reduction does not reduce the number of procedures by 50% or more, the notification is required only to HFSRB, certifying that the reduction will not reduce the number of procedures performed by 50% or more.
    - B) If the reduction is temporary for the purpose of maintenance or equipment repair, notification is required to HFSRB only, with a timetable to restore the service.
- d) **Temporary Suspension of Facility or Category of Service**  
A facility that ~~has~~ ceased operation or that ~~has~~ ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) shall file notice to HFSRB of a temporary suspension of service that is anticipated to exceed 30 days. The notice

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

shall be filed ~~no later than~~within 30 days after the suspension of the service, and shall include a detailed explanation of the reasons for the suspension, as well as the efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services ~~resume~~are reopened. Temporary suspensions shall not exceed one year unless otherwise approved by HFSRB.

- e) Failure to Provide Required or Requested Information  
~~A health care facility or person violates the Act if he or she fails~~Health care facilities and persons that fail to timely or completely comply with the notice and information requirements ~~in the Act and this Section of HFSRB, including post-permit requirements, shall be considered in violation of the Act~~ (see 20 ILCS 3960/13 and 14.1). This person is subject to the sanctions provided in the Act and Section 1130.790~~This shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and this Part.~~
- f) Changes in a Health Care Facility's Bed Capacity
- 1) "Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility which changes the bed capacity of a health care facility by:*
    - A) *increasing the total number of beds; or*
    - B) *distributing beds among various categories of service; or*
    - C) *relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/5]*
  - 2) Projects proposing the establishment or discontinuation of a bed category of service are classified as substantive projects, with a 60-day review period. (See Section 1110.40(c).)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, shall notify HFSRB and IDPH of that change. Such a change is limited to once every two years beginning on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFSRB.
- 4) Emergency Preparedness Response Report
  - A) A health care facility that temporarily increases bed capacity to accommodate extraordinary needs in the service population due to pandemic events and other disasters shall submit written notification of the increase to HFSRB within 30 days after the bed increase decision. The notification shall include:
    - i) the number of beds increased;
    - ii) a detailed description of conditions necessitating the bed capacity increase;
    - iii) the impact on normal admission activity;
    - iv) the anticipated length of time the increase is needed, indicating the prospective date when beds will be taken out of circulation; and
    - v) the signature of a senior representative of the health care facility, verifying the information in the report.
  - B) The facility shall submit written notification to HFSRB, indicating the date that the temporary bed capacity has been taken out of circulation. This notification shall be received by HFSRB within 30 days after the date that the facility's normal bed capacity was resumed.
- g) Change in Name or Change in Legal Status

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to HFSRB within 90 days after occurrence.

- h) Notice of New Services Added to ~~Multi-Specialty~~Multi-specialty ASTCs
- 1) Multi-specialty ASTCs adding new services shall notify HFSRB of ~~the~~what services ~~are~~ being added and the effective date of those services. The notification of each new service added shall be submitted to HFSRB ~~no later than~~within 30 days after the service addition. Beginning January 1, 2018, multi-specialty ASTCs seeking to add additional ASTC services shall apply for a CON permit pursuant to the provisions of Section 1110.1540.
  - 2) Multi-specialty ASTCs that, as a condition of CON permit issuance, agreed to apply for CON permits when adding services, shall continue to apply for CON permits when adding new services.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.250 HFSRB Meetings**

- a) General Guidelines
- 1) This Section pertains to formal HFSRB meetings and does not apply to other HFSRB-sponsored meetings, including public hearings or rules development meetings.
  - 2) HFSRB meetings can be held anywhere throughout Illinois, as determined by the HFSRB Chair or a majority of HFSRB members.
  - 3) Special HFSRB meetings that are not previously scheduled and are publically known can be held only if the HFSRB Chair or a majority of HFSRB members determines that a special HFSRB meeting should be scheduled.
  - 4) All HFSRB meetings shall comply with the Open Meetings Act and be conducted using Roberts Rules of Order.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 5) Only permit or exemption applicants and their staff, attorneys or consultants can testify at an HFSRB meeting during the time that their application is being considered by the Board. Other individuals attempting to be heard at an HFSRB meeting outside the public participation period will be declared out of order.
  - 6) All HFSRB meetings will be conducted as efficiently as possible. Extraneous or irrelevant discussions occurring during an HFSRB meeting will be avoided. The HFSRB Chair or a majority of Board members can designate time limits on any or all of HFSRB meeting agenda items.
  - 7) Applicants and their representatives are able to respond to all questions and statements made by Board members at the time of Board consideration of the applicant's project. The entire proceedings of every HFSRB meeting are transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB meeting.
- b) Validity of Comments
- 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any HFSRB matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.
  - 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.
- c) Presentation of New Information
- 1) HFSRB will not accept any new information presented by applicants or any of their representatives concerning an application during the HFSRB meeting at which the application is being considered by the Board.
  - 2) Submission of new information is acceptable under the following conditions:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- A) An application is deferred by the applicant or HFSRB (see Section 1130.650).
- B) An application receives an Intent to Deny following HFSRB consideration and action (see Section 1130.670).
- C) An applicant is responding to statements made during the public participation period of the HFSRB meeting at which the applicant's project is being considered.
- 3) Any new information that is pertinent to an application and allowable shall be submitted in writing to HFSRB staff within the allowable time frames ~~established in this Part~~~~provided for additional information~~ (see Sections 1130.650 and 1130.670).
- 4) ~~Applicants shall submit~~All allowable new information ~~shall be submitted~~ to HFSRB in writing, on 8½" by 11" paper.
- 5) ~~Applicants shall only submit~~All new information ~~shall be submitted within the allowable time frames established in the rules, and shall be sent only~~ by ~~any~~ recognized overnight carrier or personal delivery service.
- 6) New information submitted by email or fax will not be accepted.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

**Section 1130.310 Projects or Transactions Subject to the Act**

- a) Projects or Transactions that Require a Permit  
 A ~~person must obtain a~~ permit ~~shall be obtained~~ prior to ~~establishing the establishment, constructing construction or modifying modification of~~ a health care facility, and prior to ~~acquiring the acquisition of~~ major medical equipment, unless an exemption from the requirement to obtain a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt is subject to review and requires a permit if the project or transaction:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means) that under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for ~~the~~ such adjustment ~~for major medical equipment~~ shall be the latest annual inflation rate as reflected in the Means Cost Data (RSMeans Company, Inc., 700 Longwater Drive, Norwell MA 02061). ~~The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data.~~ The revised minimums shall be published on HFSRB's internet site ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov));
  - 2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140;
  - 3) results in the establishment of a health care facility as defined in Section 1130.140;
  - 4) changes the bed capacity of a health care facility as specified in the Act and Section 1130.240(f);
  - 5) involves a change of ownership, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E;
  - 6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140), unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E; or
  - 7) involves the acquisition of major medical equipment.
- b) Components of a Project or Transaction  
In determining the elements of a transaction or a project subject to the Act, the following factors apply:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Components of construction or modification that are interdependent must be grouped together. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.
  - 2) *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.*  
[20 ILCS 3960/3]
  - 3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components.
  - 4) Components under an application for permit shall be for a single health care facility unless the components are interdependent among multiple facilities.
- c) Prohibition on Splitting or Separating Components of a Project or Transaction
- 1) No health care facility or other person proposing a project or transaction that is subject to the Act shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year to evade the capital expenditure review threshold.
  - 2) No health care facility or other person proposing a project or transaction that is subject to the Act shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFSRB rules.
- d) Examples of Projects or Transactions Subject to the Act  
Examples of projects that constitute construction or modification of a health care facility subject to the Act include:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Projects located within a licensed or certified health care facility;
- 2) Projects that result in a health care facility:
  - A) Billing for services provided by the proposed project~~;~~
  - B) Capitalizing any portion of the proposed project~~;~~
  - C) Receiving reimbursement for services provided by the proposed project~~;~~ or
  - D) Receiving recognition as the provider of the proposed service by third party payors;
- 3) Projects that are staffed or operated by the health care facility;
- 4) Projects that are otherwise of, by, through or on behalf of a health care facility;
- 5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR  
EXEMPTION FROM PERMIT REQUIREMENTS**Section 1130.410 Projects or Transactions Exempt from Permit Requirement**

The following proposed projects and transactions are not subject to the requirement to obtain a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart **D** and Subpart E and an exemption is issued by HFSRB:

- a) the change of ownership of an existing health care facility. *This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act (with the exceptions of facilities operated by a county or Illinois Veterans Home) [20 ILCS 3960/3].*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) the discontinuation of an existing health care facility or of a category of service, *other than a health care facility maintained by the State or any agency or department thereof or a nursing home maintained by a county [20 ILCS 3960/6], when that discontinuation is the result of:*
- 1) ~~revocation of or denial of license renewal by a State or local regulatory agency;~~
  - 2) ~~for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;~~
  - 3) ~~discontinuation action taken by HFSRB;~~
  - 4) ~~the voluntary surrender of a suspended license.~~
- e) ~~the combination of two or more existing health care facilities into a single licensed health care facility, when:~~
- 1) ~~the existing facilities are located on the same site or on sites adjacent to one another;~~
  - 2) ~~the licensed person for the existing facilities is the same;~~
  - 3) ~~the combination is for the sole purpose of operating the existing facilities under a single license; and~~
  - 4) ~~the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.~~
- cd) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

**Section 1130.500 General Requirements for Exemptions**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act and Section 1130.790.

- a) Application for Exemption  
Any persons proposing a project for an exemption to permit requirements shall submit to HFSRB an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFSRB.
- b) General Information Requirements  
The application for exemption shall include the following information and any additional information specified in this Subpart:
  - 1) the name and address of the ~~applicant or applicants~~applicant and co-applicant (see Section 1130.220);
  - 2) the name and address of the health care facility;
  - 3) a description of the project, e.g., change of ownership, discontinuation, increase in dialysis stations;
  - 4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
  - 5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;
  - 6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;
  - 7) the anticipated project completion date;
  - 8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB; and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

9) the ~~application-processing~~application processing fee.

e) ~~Completion Requirements~~

~~A project that has received an exemption shall be completed in accordance with all applicable requirements no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~

HFSRB NOTE: ~~Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart.~~ If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility**

a) Submission of Application for Exemption

Prior to ~~any person~~ acquiring or entering into a contract to acquire an existing health care facility, ~~at~~the person shall submit an application for exemption to HFSRB, submit the required application-~~processing~~ fee (see Section 1130.230) and receive approval from HFSRB.

b) Application for Exemption

The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:

1) Key terms of the transaction, including the:

A) names of the parties;

B) background of the parties, which shall include proof that the applicant is fit, willing, able, and has the qualifications, background and character to adequately provide a proper standard of health service for the community by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;

- C) structure of the transaction;
- D) name of the person who will be the licensed or certified entity after the transaction;
- E) list of the ownership or membership interests in such licensed or certified entity both prior to and after the transaction, including a description of the applicant's organizational structure with a listing of controlling or subsidiary persons;
- F) fair market value of assets to be transferred; and
- G) the purchase price or other forms of consideration to be provided for those assets. [20 ILCS 3960/8.5(a)]

HFSRB NOTE: If the transaction is not completed according to the key terms submitted in the exemption application, a new application is required.

- 1) ~~affirmation that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities will not substantially change for at least 12 months following the project's completion date;~~
- 2) ~~complete transaction documents that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFSRB issuance of an exemption and that contain the conditions and terms of the change of ownership;~~
- 3) ~~proof that the applicant is fit, willing, and able and has the qualifications, background and character to adequately provide a proper standard of health service for the community [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- ~~the application;~~
- ~~4) affirmation that the applicant intends to maintain ownership and control of the facility for a minimum of two years;~~
- 25) affirmation that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;
- 36) if the ownership change is for a hospital, affirmation that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide affirmation that the compliant charity care policy will remain in effect for a two-year period; following the change of ownership transaction; ~~and~~
- ~~7) affirmation that failure to complete the project in accordance with the applicable provisions of Section 1130.500(d) no later than 24 months from the date of exemption approval (or by a later date established by HFSRB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.~~
- 48) a statement as to the anticipated benefits of the proposed changes in ownership to the community;
- 59) the anticipated or potential cost savings, if any, that will result for the community and the facility ~~because as a result~~ of the change in ownership;
- 610) a description of the facility's quality improvement program mechanism that will be utilized to assure quality control;
- ~~11) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;~~
- 712) a description of the selection process that the acquiring entity will use to select the facility's governing body;
- 813) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

response is available for public review on the premises of the health care facility; and

914) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.

c) Application for Exemption Among Related Persons

When a change of ownership is among related persons, and there are no other changes being proposed at the health care facility that would otherwise require a permit or exemption under the Act, the applicant shall submit an application consisting of a standard notice in a form set forth by the Board briefly explaining the reasons for the proposed change of ownership. [20 ILCS 3960/8.5(a)]

d) Opportunity for Public Hearing

Upon a finding by HFSRB staff that an application for a change of ownership is complete, ~~the State Board~~ HFSRB staff shall publish a legal notice on ~~one~~ ~~three~~ ~~consecutive~~ ~~day~~ ~~days~~ in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on ~~one day~~ ~~three consecutive days~~. The applicant shall pay the cost incurred by the Board in publishing the change of ownership notice in the newspaper as required under this subsection. The legal notice shall also be posted on Health Facilities and Services Review Board ~~HFSRB's~~ web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960/8.5(a)] This legal notice shall provide the following:

- 1) Name of applicants and addresses;
- 2) Name of facility and address;
- 3) Description of the proposed project and estimated total cost;
- 4) Notice of request for public hearing;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 5) Notice of tentative HFSRB meeting and location; and
- 6) Notice of tentative release of the State Board Staff Report and the time to comment on the State Board Staff Report. See HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)).

**ed)** Completion of Projects with Outstanding Permits

- 1) A permit or exemption cannot be transferred.
- 2) *In connection with a change of ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. (see 20 ILCS 3960/6(b).)*
- 3) If the requirements of this subsection (**ed**) are not met, any outstanding permit will be considered a transfer of the permit and results in the permit being null and void.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.525 Requirements for Exemptions Involving the Discontinuation of a Health Care Facility or Category of Service**

- a) **Submission of Application for Exemption**  
Prior to any person discontinuing a health care facility or category of service, the person shall submit an application for exemption to the HFSRB, submit the required application-processing fee (see Section 1130.230), and receive approval from HFSRB.
- b) **Application for Exemption**  
The application for exemption is subject to approval under Section 1130.560, and shall include a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.130. The application shall be available for review on the premises of the health care facility.
- c) **Opportunity for Public Hearing**  
Upon a finding that an application to close a health care facility is complete, the State Board shall publish a legal notice on 3 consecutive days in a newspaper of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Health Facilities and Services Review Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960/8.5(a-3)]*

(Source: Added at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.550 Agency Processing of an Application for Exemption**

- a) Application for Exemption Form  
Applicants for an exemption are required to submit a completed exemption application form, which is available from the HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)). Once completed, the form shall be submitted to the HFSRB principal office, located at 525 W. Jefferson Street, 2<sup>nd</sup> Floor, Springfield IL 62761.
- b) Completeness  
HFSRB staff shall review an application for exemption to determine whether all required information and ~~the required~~ application processing ~~fees~~ ~~fee~~ have been submitted. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If HFSRB staff ~~deems~~ ~~deem~~ the application incomplete, they shall notify the applicant of the reasons within 30 days after receipt. The ~~applicant shall submit the information or fee within 30 days after receiving the notice~~ ~~required information or fee must be received by HFSRB within 30 days after receipt of notification~~. Failure to submit the requested ~~additional~~ information ~~or fee~~ shall result in the application for exemption being voided with the loss of all fees paid.

HFSRB NOTE: Persons who have initiated or completed projects eligible for exemption without obtaining an exemption are in violation of the Act and are subject to the penalties and sanctions ~~provided in~~ ~~ef~~ the Act and Section 1130.790.

- c) Submission to Chairman of HFSRB  
Following HFSRB staff review, applications (including related documentation)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

that comply with all HFSRB requirements and are unopposed shall be forwarded to the Chairman for review and action.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.560 HFSRB Action**

## a) Action by Chairman

The Chairman, acting on behalf of HFSRB, shall review all applications for exemption and approve, deny, or refer the application or material change to HFSRB for review and action. ~~The Chairman may approve any unopposed application that meets all of the review criteria or refer it to the full Board for review and action [20 ILCS 3960/12].~~

- 1) ~~The chairman shall act on an exemption application for a change of ownership among related persons within 45 days after HFSRB staff deems the application complete, provided the application includes the requisite information. If the Board Chair has a conflict of interest or for other good cause, the Chair may request that the Board consider the application. [20 ILCS 3960/8.5(a)] An exemption application for a change of ownership of a health care facility between related persons shall be acted upon the Chairman no later than 60 days after being declared complete by HFSRB staff or 60 days after receipt of all public hearing comments and transcripts, whichever is later.~~
- 2) ~~The Chair shall act upon an exemption application for the discontinuation of a health care facility, discontinuation of a category of service, or change of ownership that is not among related persons after Board staff finds that the application is complete and includes the requested information. The Chair may refer the application to the Board.~~

## b) Action by HFSRB

- 1) HFSRB shall evaluate each application for exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application is denied and is not in conformance with exemption requirements. The number of affirmative votes for approval of an application for exemption is specified in the Act. HFSRB shall approve an application for exemption that it determines to be

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

- 2) HFSRB will defer consideration of an application for exemption when the application is the subject of litigation, until all litigation related to the application has been completed.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.570 Validity of an Exemption and Reporting Requirements**

- a) A project that has received an exemption shall be completed on or before the completion date approved by HFSRB or mandated by the Act and this Part. An exemption shall be valid through completion provided the requirements of this Section are met.
- b) For purposes of this Section, "completion" occurs on the following date:
  - 1) for change of ownership of a health care facility, the date that a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;
  - 2) for discontinuations, the date the entire health care facility or category of service ceases operation, such as when the facility stops providing services to patients or surrenders its license to the Department.~~all other projects, the date that construction has been completed and patients or residents are receiving service.~~
- c) The exemption holder shall provide written notice and related documentation to HFSRB of the following:
  - 1) for discontinuations, notice of~~Each exemption holder shall notify HFSRB~~ of project completion no later than 90~~30~~ days following the project completion date;~~and~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) for changes of ownership in which the applicant submitted key terms of the transaction, certification that the transaction was or was not completed according to the key terms contained in the application. The exemption holder must submit the certification within 90 days after the closing date of the transaction; and
- 32) for changes of ownership in which the applicant submitted the final transaction documents, notice of project completion, no later 90 days after the change of ownership. Where required under other Sections of this Part, a final cost report and all other required documentation shall be submitted to HFSRB no later than 90 days following the project completion date, as identified by the exemption holder.
- d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility.
- e) When an applicant has submitted key terms of the transaction rather than final transaction documents, an exemption for a change of ownership of a health care facility shall be invalid if the exemption holder fails to submit a statement to the Board within 90 days after the closing date of the transaction, or such longer period as provided by the Board, certifying that the change of ownership has been completed in accordance with the key terms contained in the application. If such key terms of the transaction change, a new application is required. [20 ILCS 3960/8.5(a)]
- f) Other events causing an exemption to become invalid include:
- 1) Change of permit (see Section 1130.710(c));
  - 2) Failure to submit the Expenditure Commitment or Financial Commitment~~Obligation~~ Report, which should be included with the annual progress reports;
  - 3) Failure to submit annual progress reports to HFSRB;
  - 4) Failure to submit Final Cost Reports to HFSRB;
  - 5) Implementation of a prohibited alteration (see Section 1130.750(c)); and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

6) Relinquishment of an exemption without Board approval.

*gf) The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. [20 ILCS 3960/6(b)]*

*hg) Failure to comply with the requirements of this Section within the specified time frames shall subject the exemption holder to the sanctions and penalties provided by the Act (see 20 ILCS 3960/14.1) and Section 1130.790.*

HFSRB NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.580 Relinquishment of an Exemption**

The holder of an HFSRB exemption may request to withdraw ~~or abandon~~ that exemption. The relinquishment request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the exemption is considered null and void. Requests for relinquishment shall be considered only for exemptions that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the exemption.

a) Relinquishment Procedure

The permit holder shall notify HFSRB in writing, prior to the execution of the withdrawal of a project. The notice shall include:

- 1) A description of the exemption and related costs;
- 2) A detailed explanation of the reasons for relinquishment; and
- 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.

b) HFSRB staff shall review the request for relinquishment and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.

- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
- d) Decisions on requests for relinquishment shall be transmitted in writing to the exemption holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) A request for relinquishment shall be assessed an application-processing fee of \$1,000 (see Section 1130.230(h)(8)(B)).

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.590 Revocation of an Exemption**

- a) HFSRB shall revoke an exemption upon a determination that an exemption holder has failed to comply with the requirements of the Act and this Part. ~~The This HFSRB~~ determination ~~to revoke an exemption~~ may be based upon, but not limited by, any of the following reasons:
  - 1) The project for which the exemption was granted has been altered without the required notice and approval of HFSRB;
  - 2) The exemption holder has failed to complete the project on or before the completion date;
  - 3) The exemption holder or applicant materially changed information or details submitted in the exemption application or in any written materials submitted to HFSRB;
  - 4) The permit holder or applicant submitted false information in the Application for Exemption or in any written materials submitted to HFSRB;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 5) The permit holder or applicant misrepresented information presented at an HFSRB meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;
  - 6) The exemption holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.
    - A) A felony;
    - B) Two or more misdemeanors involving moral turpitude;
  - 7) The exemption holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by HFSRB representatives (i.e., IDPH surveyors);
  - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the exemption application or with any other information submitted to HFSRB;
  - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke an exemption, the exemption holder shall be provided with written notification of the intent to revoke and notice of allegations. The exemption holder shall be afforded an opportunity for a hearing before an administrative law judge. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, in addition to the revocation determination.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW  
AND PROCESSING OF APPLICATIONS FOR PERMIT

**Section 1130.610 Duration of the Review Period and Time Frames**

- a) Emergency Applications  
Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made verbally or in writing or by electronic means to the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Administrator. The Administrator, upon receiving the concurrence of the Chairman (or in the absence of the Chairman, the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give verbal approval. Any such communications shall be followed by a written application and written approval. *This procedure is exempt from the public hearing requirements of the Act [20 ILCS 3960/12].* The written application shall identify the applicant and shall summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

- b) Substantive and Non-substantive Applications  
The review period for HFSRB staff shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for non-substantive projects and 120 days for substantive projects, with the exception of projects proposing to establish or discontinue a category of service, *which shall be reviewed by the Board within 60 days [20 ILCS 3960/12], and applications for changes of ownership among related persons, which shall be acted upon by the Board Chair within 45 days. If the Board Chair has a conflict of interest or for other good cause, the Chair may request review by the Board. [20 ILCS 3960/8.5(a)]*. The review period can be extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by HFSRB at the next regularly scheduled meeting that is at least 10 business days following the completion of the HFSRB staff review.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.620 Technical Assistance, Classification, Completeness Review, and Review Procedures**

- a) Technical Assistance
- 1) The application shall be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance ~~from~~ or a pre-application conference ~~with~~ HFSRB staff regarding completion of the application and the applicability of the requirements of this Part.
  - 2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

HFSRB, provided that the communication is *not intended to influence any decision on the application. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed format, and shall be included in the public record.* [20 ILCS 3960/4.2]

- 3) *Nothing in the Act shall prohibit staff members from providing technical assistance to applicants. Nothing in the Act shall prohibit staff from verifying or clarifying an applicant's information as they prepare the Board's staff report.* [20 ILCS 3960/4.2(a)]
- 4) Technical assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, or consultations with independent experts. HFSRB staff shall prepare a written record of any technical assistance provided after an application is deemed complete, for inclusion in the application file.

- b) **Classification of an Application**  
An application for permit shall be classified as substantive, non-substantive or emergency, as discussed in 77 Ill. Adm. Code 1110.40.

- c) **Completeness Review**

- 1) Within 10 business days after ~~receiving receipt of~~ an application for permit, HFSRB staff shall determine whether the application is substantially complete and ready to be reviewed for compliance with applicable review criteria and standards. The completeness review shall be conducted with the understanding that additional information may be necessary during the staff review period for criteria compliance, to further clarify or explain statements or data in the application. An application for any project shall be deemed complete if all of the following have been met:

- A) all review criteria applicable to the individual project have been addressed, including the Safety Net Impact Statement (for applicants other than ~~long-term~~~~long-term~~ care providers);

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- B) the required fee (as outlined in ~~subsection (d) of this~~ Section 1130.230) has been submitted;
- C) the number of copies, forms, and format as specified in the application have been submitted;
- D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;
- E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;
- F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
- G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- H) all HFSRB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete;
- I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB;
- J) documentation of compliance with the Flood Plain Rule under Illinois Executive Order #2006-05;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and
- L) identification of a site.
- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.
- 3) If an application fails to include any of the elements described in subsection (d)(1) or if additional information or documentation is required to clarify a response, the application shall not be scheduled for consideration by HFSRB until such time that the required information is submitted and accepted.
- 4) Applications received after 8:30 a.m. shall be deemed as being received the following business day.
- 5) Within the completeness review period, HFSRB shall notify the applicant in writing of whether the application is substantially complete, ~~within the completeness review period, of its decision~~ and, in the case of an incomplete application, the reasons the application is incomplete.
- 6) If the application is ~~deemed~~ complete, the ~~date of~~ completion date shall initiate the review period. If the application is ~~deemed~~ incomplete, the applicant shall be allowed 45 days ~~after from the date of receipt of the~~ notification to provide all necessary information to complete the application. Upon ~~receiving receipt of~~ all ~~requested additional~~ information ~~requested~~, HFSRB staff shall again review the application for completeness and shall notify the applicant of its decision. If HFSRB staff find that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

HFSRB NOTE: The applicant is responsible for assuring ~~It is the responsibility of the applicant to assure~~ that HFSRB receives the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~requested~~ **additional** information within the prescribed time frame.

- d) Review Procedures
- 1) All applications will be reviewed and evaluated for conformance with the applicable review criteria in effect at the time the application is deemed complete.
  - 2) Each application will be reviewed and considered on an individual basis unless HFSRB has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.
  - 3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFSRB decisions in effect prior to the date HFSRB takes action on the application. HFSRB action includes the approval, issuance of an intent to deny, or denial of an application.
  - 4) All applications except emergency applications are subject to the public hearing requirements of the Act. All evidence submitted at a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.635 Additional Information Provided During the Review Period**

- a) Additional Information
- 1) During the review period, HFSRB may request information or data from the applicant or from other persons to clarify the application and conduct the HFSRB staff review.
  - 2) The applicant may also submit information or data if the information is:
    - A) due to a modification of the project; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- B) in response to an Intent to Deny, or in response to a request from HFSRB.
- 3) All additional information shall be submitted to HFSRB's staff in writing, on 8½" by 11" paper.
- 4) All additional information shall be submitted within the required time frame established in subsections (b) and (c) and shall be sent only by any recognized overnight courier or personal delivery service.
- 5) Additional information submitted by fax or email will not be accepted.
- 6) All additional information shall be made part of and included in the project record.
- b) **Public Comment Information**  
Public comment information from persons other than the applicant that ~~were~~~~has~~ ~~been~~ submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or additional information. The information shall be made part of and included in the project record.
- c) **Public Response to Staff Review and Findings**  
*The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff or reviewing organization. Members of the public shall submit any written response to the staff review and findings at least 10 days before the meeting of the State Board. The staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials. [20 ILCS 3960/6 (c-5)]*
- d) **Ex Parte Information**  
HFSRB will comply with the requirements of the Act pertaining to ex parte communications. (See 20 ILCS 3960/4.2.)

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.640 Extension of the Review Period**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) Extension by HFSRB of the Review of Information  
As required to complete its review, HFSRB staff may extend the review period for up to 120 days ~~to analyze for the analysis of~~ additional information. HFSRB will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of ~~the~~ HFSRB review of the additional information.
- b) Extension Due to Deferral by Applicant  
The applicant may defer consideration of a project by HFSRB. A deferral extends from the HFSRB meeting at which the project has been scheduled to the next scheduled HFSRB meeting, subject to a review period of up to 60 days for ~~analyzing analysis of~~ additional information. A request for deferral, specifying the reasons for the request, shall be submitted to HFSRB, as follows:
- 1) Written Request – to be received by HFSRB staff no later than 5 business days prior to the scheduled HFSRB meeting; or
  - 2) Verbal Request – by issuing a formal request to HFSRB during the consideration of the project at the HFSRB meeting.
- c) An applicant may not defer:
- 1) initial consideration of the application by HFSRB to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or
  - 2) HFSRB consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 12 months from the date of HFSRB's decision of Intent to Deny.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.650 Modification of an Application**

- a) Modifications to an application are allowed during the review period, prior to final HFSRB decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of the Act. If requested, a hearing would occur within the time allocated for HFSRB staff review. Type A modifications consist

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

of any of the following:

- 1) A change in the number of beds proposed in the project.
  - 2) A change in the ~~site of the~~ project site to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification. It ~~and~~ voids the application.
  - 3) A change in the cost of the project exceeding 10% of the original estimated project cost.
  - 4) A change in the total gross square footage (GSF) of the project exceeding 10% of the original GSF.
  - 5) An increase in the categories of service to be provided.
  - 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.
  - 7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6), that, by itself, would require a certificate of need (CON) permit or exemption.
- b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of HFSRB, are Type B modifications and are not subject to public hearing.
- c) An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFSRB.
- d) If a modification is not in conformance with and limited to the comments, recommendations or objections of HFSRB, HFSRB staff shall:
- 1) have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) hold a public hearing if requested; and
- 3) submit its findings to HFSRB at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB staff review.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.655 HFSRB Consideration and Action**

- a) Chairman Consideration and Action
  - ~~1)~~ Applications for permit that meet all of HFSRB's review criteria and are unopposed shall be:
    - 1A) reviewed for approval by the Chairman, acting on behalf of HFSRB [20 ILCS 3960/5]; or
    - 2B) referred by the Chairman to the full Board for review and action.
    - ~~2) The review and subsequent action by either the Chairman or the full Board shall take place prior to the next regularly scheduled HFSRB meeting that is at least 10 business days following the completion of the staff review of the applications.~~
- b) HFSRB Consideration and Action

HFSRB shall review each application for permit to determine compliance with all applicable review criteria. HFSRB shall consider the application material, additional information, public comment and public hearing testimony, HFSRB staff findings, and other information coming before it and take the following action:

  - 1) approve the application and issue a permit;
  - 2) issue an Intent to Deny (an initial denial of a project);
  - 3) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;
  - 4) issue a final denial of a project subsequent to an administrative hearing or waiver of a hearing; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

5) defer ~~the decision to consideration on~~ an application to a subsequent meeting. HFSRB deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFSRB meeting. HFSRB may defer consideration of an application for permit when the application is the subject of litigation, until all litigation related to the application ~~is complete~~~~has been completed~~.

- c) HFSRB Written Decisions  
HFSRB shall *issue written decisions, upon request of the applicant or an adversely affected party, to the Board within 30 days after the meeting in which the final decision has been made.* [20 ILCS 3960/12]

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.660 Approval of an Application**

- a) The number of affirmative votes required for approval of an application and issuance of a permit by HFSRB is specified in the Act. HFSRB shall consider the application and any additional information or modification submitted by the applicant, HFSRB staff reports, the public hearing testimony and written comments, if any, and other information coming before it in making its determination whether to approve the project. Applications are reviewed to determine compliance with review criteria contained in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more of the applicable review criteria shall not prohibit the issuance of a permit. A permit is effective on the date of HFSRB authorization.
- b) HFSRB may propose conditions to be placed upon any application for permit. Projects that are approved with conditions or stipulations shall contain the following:
- 1) Specified conditions that are expressly agreed to by the applicant;
  - 2) Establishment of time frames for compliance with conditions;
  - 3) Establishment of reporting requirements; and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) Assurance that any change to the application for permit does not constitute a Type A modification as delineated in Section 1130.650(a) that would require a public hearing.
- c) ~~A permit holder's failure to comply with any conditions within the prescribed time frames, without a previously authorized extension, shall provide a basis for HFSRB to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and Section 1130.790. Following issuance of a permit, HFSRB shall send a permit acceptance agreement to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain compliance with the permit.~~
- d) ~~Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and Section 1130.790.~~

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.670 Intent to Deny an Application**

- a) Issuance of Intent to Deny  
Failure of an application for permit to receive the number of affirmative votes required by the Act upon initial consideration by HFSRB shall constitute an Intent to Deny the application. ~~After issuing~~Subsequent to the issuance of an Intent to Deny, HFSRB will give the applicant ~~will be given~~ an opportunity to appear before HFSRB and present ~~such information as may be~~ relevant to the approval of ~~the~~ permit [20 ILCS 3960/10]. The date of the Intent to Deny is the date of the HFSRB meeting when the action occurred.
- b) Applicant's Response  
The applicant shall notify HFSRB in writing within 14 calendar days after ~~the issuance of an~~ Intent to Deny ~~to~~and indicate whether the applicant intends to appear before HFSRB and/or submit additional information. The applicant is responsible for assuring~~It is the responsibility of the applicant to assure~~ that HFSRB ~~receives~~ is in receipt of the response within 14 days ~~after issuance of~~ ~~the~~an Intent to Deny.
- c) Action Following Notice of Intent to Deny

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) If the applicant waives the right to appear before HFSRB or if a written response is not received within 14 days after ~~the issuance of an~~ Intent to Deny, then the application shall be considered withdrawn.
  - 2) If the applicant indicates that no additional information will be submitted, HFSRB shall take action on the application at its next meeting.
  - 3) If the applicant indicates that additional information will be submitted, the applicant shall be afforded ~~a period of~~ 60 days from the date ~~of issuance~~ of the Intent to Deny to submit the material. Upon receipt of additional information, HFSRB staff shall commence a review and submit its findings to HFSRB in accordance with the provisions of this Subpart. HFSRB staff shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report.
- d) **Deferrals by Applicant**  
A project that has received an Intent to Deny and has been scheduled for HFSRB consideration can be deferred by the applicant. A notice of deferral may be provided in writing prior to the scheduled HFSRB meeting or be provided verbally at the HFSRB meeting. An applicant may not defer HFSRB consideration beyond an HFSRB meeting date that is more than 12 months from the date ~~of issuance~~ of the Intent to Deny.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.680 Denial of an Application**

- a) If, ~~after subsequent to an issuance of~~ an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval as specified in the Act, the HFSRB vote shall constitute a denial of the application for permit.
- b) If HFSRB denies an application for permit, the decision and notice of opportunity for administrative hearing shall be transmitted to the applicant by certified mail.
- c) At the conclusion of such administrative hearing, or upon default of the applicant, HFSRB shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Administrator shall transmit the decision to the applicant by certified mail.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

**Section 1130.710 Validity of Permits**

A permit is effective on the date of HFSRB authorization.

- a) A permit shall be valid until the project has been completed, provided that:
  - 1) financial commitment of the project occurs within the time frames specified in the Act, unless HFSRB extends the financial commitment period ~~is extended by HFSRB~~ (as defined in Section 1130.730); and
  - 2) the project commences and proceeds to completion with due diligence. The financial commitment period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The financial commitment period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.
  
- b) Projects shall proceed with due diligence and shall be completed (see Section 1130.140) no later than the completion date approved by HFSRB. A permit holder shall be subjected to sanctions provided in the Act and Section 1130.790 if the project is not completed by the completion date provided in the original permit or renewal letter. ~~All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFSRB pursuant to Section 1130.740.~~
  
- c) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A permit is invalidated by:
  - 1) a change in the person who is the permit holder;
  - 2) a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) the transfer or assignment of a controlling interest in, or voting rights of, a for-profit corporation that is the permit holder.
- d) ~~A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment.~~
- de) Other events causing a permit to become invalid include:
  - 1) Change of permit (see Section 1130.710(c));
  - 2) Failure to submit the Expenditure Commitment or **Financial Commitment**~~Obligation~~ Report, which should be included with the annual progress reports;
  - 3) Failure to submit annual progress reports to HFSRB;
  - 4) Failure to submit Final Cost Reports to HFSRB;
  - 5) Implementation of a prohibited alteration (see Section 1130.750(c));
  - 6) Relinquishment of a permit without Board approval; and
  - 7) Failure to comply with the requirements of Section 1130.660(d).

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.720 Financial Commitment**

- a) ~~A permit holder shall financially commit projects~~**Projects** for construction, establishment or modification ~~shall be financially committed~~ by expending or committing to expend at least 33% of the total project cost no later than:
  - 1) 24 months for major construction projects; or
  - 2) 12 months for all projects that do not include major construction; or
  - 3) The HFSRB completion date of the permit, if it occurs before the deadlines in subsections (a)(1) and (a)(2).

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) Projects that have no cost shall be considered financially committed upon HFSRB issuance of a permit.
- c) Permits for projects that have a cost and that have not been financially committed as stated in this Section shall be considered expired and the project abandoned. ~~A permit holder who fails~~ Failure to meet ~~the~~ financial commitment requirements ~~as stated~~ shall ~~be~~ subject ~~the permit holder~~ to fines ~~under the Act and pursuant to~~ Section 1130.790~~(d)(1)~~.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.730 Extension of the Financial Commitment Period**

- a) HFSRB may grant the permit holder a single extension ~~of time~~ to financially commit at least 33% of the total project costs. An extension shall be for a period of up to one year ~~from and shall commence on~~ the previously defined financial commitment date.
- b) The permit holder shall submit a written request for extension, along with an application ~~processing~~ fee.
- c) A request for extension must be in writing and received by HFSRB at least 45 days prior to the defined financial commitment date or the permit expiration date if, based on the 12-month or 24-month requirement for financial commitment, the permit expiration date comes before the defined financial commitment date. A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is received less than 45 days prior to the permit financial commitment date shall be subject to an additional \$500 late ~~application-processing~~ ~~application processing~~ fee. If ~~HFSRB does not receive~~ payment ~~has not been received within 30 days after receipt of written notice for payment~~, the request for extension ~~will~~ ~~shall~~ not be processed.
- d) HFSRB staff shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request, or refer the request to HFSRB for action. If HFSRB staff find that not all

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~criteria are all criteria are not~~ positive, or if the Chairman refers this to the full Board for action, then the matter shall be sent by HFSRB staff to HFSRB members. HFSRB shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Denial by HFSRB of an extension request shall constitute the final HFSRB decision and is not subject to administrative appeal.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.740 Permit Renewal**

A permit holder may request a completion date that is later than an approved project completion date by submitting to HFSRB a request for permit renewal.

- a) Permit renewal by HFSRB must be requested prior to the required project completion date.
- b) A permit renewal shall commence on the expiration date of the original permit.
- c) The request for permit renewal shall be in writing and shall be received by HFSRB at least 45 days prior to the expiration date of the permit, and shall include the following information:
  - 1) the requested completion date;
  - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;
  - 3) a statement as to the reasons why the project has not been completed; and
  - 4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope ~~comply are in compliance~~ with the application ~~what~~ HFSRB approved and that sufficient financial resources are available to complete the project.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) HFSRB staff shall review the request and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, and if this is the first request for this project, then the request, HFSRB staff findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for action. If HFSRB staff find that all criteria are not positive, if this is not the first request for this project or, if the Chairman refers this to the full Board for action, then HFSRB will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of affirmative votes required to approve a renewal request is specified in the Act. If a request for renewal of permit is denied, HFSRB may issue a Notice of Intent to Revoke a Permit if the project is not completed by the HFSRB-approved completion date. The permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J.

HFSRB NOTE: Permit revocation procedures are explained in Section 1130.780.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.750 Alteration of Post-Permit Projects**

- a) Applicability
- ~~The cumulative effect of alterations to a project shall not exceed the following:~~
- 1) ~~Permit holders shall report all~~Alterations ~~shall be reported~~ to HFSRB before ~~executing the alteration~~~~any alteration is executed~~. Some proposed alterations require HFSRB approval and some are prohibited. Proposed alterations that are not cited under these two categories require only written notification to HFSRB prior to execution ~~of the alteration~~.
  - 2) Any change after ~~the issuance of a~~ permit is issued may ~~constitute~~~~constitute~~ an alteration. Permit holders shall report allAlterations ~~shall be reported~~ to HFSRB before the alteration is~~any alteration is~~ executed.
  - 3) The alteration requirements are applicable only to projects with open permits (approved projects that are not yet completed).

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) Alteration provisions are valid only for the projects defined and approved in the permit.
  - 5) A project with a permit can be altered any time between the date of permit issuance and ~~the~~ project completion ~~date~~.
  - 6) All alterations requiring HFSRB action shall be reviewed and approved on a cumulative basis. More than one alteration can be reviewed and approved during the life of a project; however, the limits on alterations shall be applied cumulatively for a single permit.
- b) Limits on Allowable Alterations Requiring HFSRB Approval  
The cumulative effect of alterations to a project shall not exceed the following:
- 1) a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFSRB;
  - 2) abandonment of an approved category of service established under the permit;
  - 3) any increase in the square footage of the project up to 5% of the approved gross square footage;
  - 4) any decrease in square footage greater than 5% of the project;
  - 5) any increase in the cost of the project not to exceed 7% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 7% of the total project cost;
  - 6) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A-" or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application).
- c) Prohibited Alterations  
Notwithstanding the provisions of subsection (b), the following alterations are not

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

allowed and, if incurred, invalidate the permit:

- 1) an increase in the total project ~~costeests~~ that exceeds 7% of the permit amount;
- 2) an increase in the project's gross square footage that exceeds 5% of the project's approved gross square footage, unless that increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance;
- 3) any other change in the project's scope or funding that would independently require a CON permit or exemption.

d) Alteration Procedures

1) Written Notification

A) The permit holder shall notify HFSRB in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFSRB approval. HFSRB staff shall review the alteration request for compliance with the review criteria and submit its findings to HFSRB. If additional information is needed by HFSRB staff to perform a review of the request, the permit holder shall be notified.

B) All alteration requests shall be submitted to the State Board in writing on 8½" by 11" paper.

C) All alteration requests shall be submitted within the allowable time frames established in subsection (a)(1) and shall be sent only by any recognized overnight courier or personal delivery service.

D) Alteration requests submitted by email or fax will not be accepted.

2) Compliance with 77 Ill. Adm. Code 1110 and 1120

A request for alteration reviewed by HFSRB is subject to the provisions of 77 Ill. Adm. Code 1110 and 1120 that are applicable to the individual project. The components and any other proposed alterations to a project

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

that would, when taken as a separate component, require a permit under the Act shall not be subject to review under this Section but shall require a new application for a permit.

- 3) **HFSRB Staff Review**  
HFSRB staff shall review the alteration request for compliance with the review criteria, and prepare a report of its findings for HFSRB review. HFSRB will notify the permit holder if additional information is needed to review the request, ~~the permit holder will be notified.~~
- 4) **Board Review and Action**
  - A) The alteration request, HFSRB staff findings, and all related documentation shall be sent to the Chairman if:
    - i) staff review determines that the alteration request is in conformance with all HFSRB criteria; and
    - ii) this is the first alteration request for the project.
  - B) The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for consideration and action. Other conditions under which the alteration request shall be referred to the full Board for consideration and action are as follows:
    - i) the request is not in conformance with all HFSRB criteria;  
or
    - ii) the request is not the first one for an alteration concerning the project in question.
  - C) The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFSRB's final administrative decision.
- 5) **Inventory and Permit Amount Adjustments**  
Upon approving~~approval of~~ a request for alteration, HFSRB will revise the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

- 6) Notification of Decision to Applicant  
~~HFSRB staff shall submit to the permit holder that submitted a request for an alteration a written notice of HFSRB's decision. Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by HFSRB staff.~~
- 7) Applicable Penalties  
Any alteration undertaken without prior HFSRB notice or notice and approval (when required) shall be considered a violation of the Act and/or subsection (a)(1) of this Section and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.760 Annual Progress Reports**

- a) Each permit holder shall submit annual progress reports to HFSRB staff every 12 months from the permit issuance date until the project is completed. *A permit holder must submit annual progress reports no earlier than 30 days before and no later than 30 days after each anniversary date of the Board's approval of the permit until the project is completed.*
- b) ~~Permit holders shall limit post-permit reports to annual progress reports and the final completion and cost report. To maintain a valid permit and to monitor progress toward project commencement and completion, routine post permit reports shall be limited to annual progress reports and the final completion and cost report.~~
- c) *Annual progress reports shall include information regarding the committed funds expended toward the approved project.*
- d) *If the project is not completed in one year, then, by the second annual report, the permit holder shall expend 33% or more of the total project cost or shall make a commitment to expend 33% or more of the total project cost by signed contracts*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*or other legal means, and the report shall contain information regarding those expenditures or commitments.*

- e) *If the project is to be completed in one year, then the first annual report shall contain the ~~financial expenditure~~ commitment information for the total project cost.*
- f) *The State Board may extend the ~~financial expenditure~~ commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project. [20 ILCS 3960/5] The financial commitment period may be extended once for a maximum of one year. (See Section 1130.730.) If the financial commitment period is extended, the financial commitment information shall be submitted no later than the due date of the next annual report that immediately follows the new financial commitment date.*
- g) *If a permit holder fails to provide the required annual reports, the permit holder's future applications will be considered incomplete until HFSRB staff receives the required reports.~~Failure to provide the required annual progress reports will result in future applications being considered incomplete by HFSRB staff until the required reports are received.~~*
- h) *A permit holder's failure~~Failure~~ to timely submit~~process~~ the required annual progress reports shall be considered a violation of the Act and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.*
- i) All information submitted to HFSRB regarding annual progress reports shall be submitted on 8½" by 11" paper.
- j) All information regarding annual progress reports shall be submitted within the allowable time frames established in subsection (a) and shall be sent only by ~~any~~ recognized overnight courier or personal delivery service.
- k) Annual reports submitted by email or fax will not be accepted.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) Written Notification
- 1) Each permit and exemption holder shall notify HFSRB upon its project completion.
  - 2) All information concerning project completion shall be submitted on 8½" by 11" paper.
  - 3) All information regarding project completion shall be submitted within the allowable time frames established in subsection (a)(5) and shall be sent only by any recognized overnight courier or personal delivery service.
  - 4) Notices of project completion and final realized costs will not be accepted by email or fax.
  - 5) The report of project completion and final realized costs, including supporting documentation listed in subsections (c) and (d), shall be submitted within 90 days following the project completion date.
  - 6) The permit holder may request an extension of the deadline for submission of the final project cost report by meeting the requirements stated in Section 1130.740 (Project Renewal).
- b) For projects with no cost, the permit holder shall submit a written notice to HFSRB of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations).
- c) For a project with a cost below the capital expenditure minimum, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) a detailed itemization of all project costs and sources of funds;
  - 2) a certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional ~~or~~ associated costs or capital expenditures related to the project;
  - 3) certification attesting to compliance with the requirements of this Section shall be in the form of a notarized statement signed by an authorized

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

representative of the permit holder; and

- 4) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.
- d) For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) itemization of all project costs;
  - 2) certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project;
  - 3) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative of the permit holder;
  - 4) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent; and
  - 5) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds. The audited financial report, when required, shall be completed by an independent certified public accountant. A financial report completed by a permit holder's internal auditor will not be accepted.
- e) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by HFSRB staff until the required report is filed. In addition, the permit holder will be subject to fines, penalties and sanctions as mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- f) Failure to timely file the project's report of project completion and final realized costs, all necessary supporting documentation following the project completion, or any project cost overrun information shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.
- g) Any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFSRB. *Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount [20 ILCS 3960/5].*
- h) Any project with a cost overrun shall not be complete until HFSRB determines that the project has complied with all project completion requirements, as determined by HFSRB.
- i) Any project that is compliant with the conditions of its permit shall not be complete until HFSRB determines that the project completion requirements have been met.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.775 Relinquishment of a Permit**

~~A permit holder~~~~The holder of an HFSRB permit~~ may request to withdraw ~~its~~~~or abandon that~~ permit. The request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the permit is considered null and void. Requests for relinquishment shall be considered only for permits that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the permit. HFSRB will not process a request for relinquishment until it receives the application-processing fee.

- a) Relinquishment Procedure  
The permit holder shall notify HFSRB in writing, prior to the abandonment or withdrawal of a project. The notice shall include:
  - 1) A description of the permit and related costs;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) A detailed explanation of the reasons for abandonment; and
  - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for withdrawal and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The ~~Chairman~~Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
  - c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
  - d) Decisions on requests for relinquishment shall be transmitted in writing to the permit holder.
  - e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and ~~in~~Section 1130.790.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.780 Revocation of a Permit**

- a) HFSRB shall revoke a permit upon a determination that a permit holder has failed to comply with the requirements of the Act and this Section. ~~The~~**This HFSRB** determination ~~to revoke a permit~~ may be based upon, but not limited by, any of the following:
  - 1) the project for which the permit was granted has been altered without the required notice and/or approval of HFSRB;
  - 2) the permit holder has failed to complete the project on or before the completion date;
  - 3) The permit holder or applicant materially changed information or details submitted in the CON application or in any written materials submitted to HFSRB;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) The permit holder or applicant submitted false information in the CON application or in any written materials submitted to HFSRB;
  - 5) The permit holder or applicant misrepresented information presented at a Board meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;
  - 6) The permit holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction:
    - A) A felony;
    - B) Two or more misdemeanors involving moral turpitude;
  - 7) The permit holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by Board representatives (i.e., IDPH surveyors);
  - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the CON application or with any other information submitted to the Board;
  - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke a permit, the permit holder shall be provided with written notification of the intent to revoke and notice of allegations. The permit holder shall be afforded an opportunity for a hearing before an administrative law judge, and may request to appear before HFSRB prior to the start of an administrative hearing. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, ~~in addition to the revocation determination~~ (see 20 ILCS 3960/14.1(c)).

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.790 Penalties, Fines and Sanctions ~~Mandated in the Illinois Health Facilities Planning Act~~ for Non-compliance with the Act and HFSRB Rules**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) *Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained. [20 ILCS 3960/13.1]*
- b) *Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under the Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to \$25,000. [20 ILCS 3960/14]*
- c) *HFSRB may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as HFSRB deems necessary, including the imposition of fines. [20 ILCS 3960/14.1(a)]*
- d) *HFSRB may impose fines as specified below for the enumerated violations:*
- 1) *A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(1)]*
- 2) *A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining HFSRB approval shall be fined an amount not to exceed the sum of:*
- A) *The lesser of \$25,000 or 2% of the approved permit amount; and*
- B) *In those cases where the approved permit amount is exceeded by more than \$1,000,000, an additional \$20,000 for each \$1,000,000, or fraction thereof, in excess of the approved permit amount. [20 ILCS 3960/14.1(b)(2)]*
- 3) *A permit holder who fails to comply with the post-permit and reporting requirements set forth in Section 5 shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*thereof, that the violation continues. This fine shall continue to accrue until the date that the post-permit requirements are met and the post-permit reports are received by the State Board, or until the matter is referred by the State Board to the State Board's legal counsel. The accrued fine is not waived by the permit holder submitting the required information and reports. Prior to any fine beginning to accrue, the Board shall notify, in writing, a permit holder of the due date for the post-permit and reporting requirements no later than 30 days before the due date for the requirements. [20 ILCS 3960/14.1(b)(2.5)]*

- 43) A person who acquires major medical equipment, or who establishes a category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed \$10,000 for each such acquisition or category of service established plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(3)]*
- 54) A person who constructs, modifies, ~~or~~ establishes, or changes ownership of a health care facility without first obtaining a permit or exemption shall be fined an amount not to exceed \$25,000 plus an additional \$25,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(4)]*
- 65) A person who discontinues a health care facility or category of service without first obtaining a permit or exemption shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. Facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with exception of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close. [20 ILCS 3960/14.1(b)(5)]*
- 76) A person subject to the Act who fails to provide information requested by HFSRB or its staff within 30 days after a formal written request shall be fined an amount not to exceed \$1,000, plus an additional \$1,000 for each*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*30-day period, or fraction thereof, that the information is not received by HFSRB or its staff. [20 ILCS 3960/14.1(b)(6)]*

- e) If an individual or entity has failed to comply with the Act or HFSRB rules and has been notified by HFSRB about an allegation of noncompliance, this shall provide a basis for HFSRB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFSRB until the noncompliant matter is resolved.
- f) Failure to pay any fine imposed under this Section within 30 days after its imposition, or by a specified date if the default of payment extends past 30 days, shall subject the person to other sanctions permitted by the Act as HFSRB deems appropriate.
- g) If an individual, entity or person who has failed to comply with the Act or HFSRB rules, waives his or her right to an administrative hearing regarding the noncompliance and waives an opportunity to appear before HFSRB to respond to the noncompliance matters, HFSRB is authorized to use in-kind services to reduce the fines in the negotiation of settlements.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART H: DECLARATORY RULINGS

**Section 1130.810 Declaratory Rulings**

HFSRB shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for ~~determinations~~determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act, these determinations are declaratory rulings and are not subject to appeal. ~~Matters~~ The following ~~matters shall be~~ subject to declaratory rulings by HFSRB ~~include, including~~, but are not limited to:

- a) whether a proposed project requires a permit or exemption;
- b) corrections to the facility inventories utilized by HFSRB;
- c) recognition that a particular service was in existence prior to permit requirements;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) amount of fees required;
- e) project classification as substantive or non-substantive; and
- f) applicability of rules.

HFSRB NOTE: Declaratory ruling requests pertaining to an application for permit or exemption during the review period may be submitted only by the applicant and by HFSRB staff.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

**Section 1130.910 Applicability**

- a) Public Hearing on Certificates of Exemption ~~for Change of Ownership~~  
The Act requires that HFSRB staff afford an opportunity for public hearing when an exemption application for a change of ownership, discontinuation of a health care facility, or discontinuation of a category of service ~~exemption~~ is declared complete (see 20 ILCS 3960/8.5).
- b) Public Hearing on Proposed Rules  
In addition to the requirements of the IAPA, HFSRB shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit**

- a) Notice of Review and Opportunity for Public Hearing and Comment  
After HFSRB staff deems complete an application for permit, or after the applicant makes a type A modification to an application that is deemed complete ~~has been received and has been deemed complete or after certain types of modification have been made to a complete application~~ (pursuant to the provisions of this Part), HFSRB shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). This Notice shall consist of at least the following elements:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for HFSRB review;
- 2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;
- 3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;
- 4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;
- 5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing shall be received by HFSRB; and
- 6) HFSRB staff must receive all public comments regarding an application~~All public comment regarding an application shall be received by HFSRB staff~~ no later than 20 days prior to the tentatively scheduled consideration of the application~~by HFSRB~~. If the~~that date of~~ consideration date is extended, ~~then~~ the public comment period will also be extended. If subsequent to HFSRB consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny~~, or is denied~~), ~~then~~ the public comment period shall be extended to the 20 days prior to the next consideration.

HFSRB NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

- b) HFSRB shall forward the~~The~~ Notice of Review and Opportunity for Public Hearing and Comment ~~shall be forwarded promptly~~ to the applicant by certified mail and publish the notices~~shall be published~~ in a newspaper of general circulation in the area or community where the project is to occur.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by ~~publishing~~~~publication of~~ the notice in a newspaper in the area or community where the project is to occur.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.930 Notice of Public Hearing on Applications for Permit**

- a) Content and Distribution of Notice of Public Hearing on Application for Permit  
If HFSRB staff receive a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or Comment within the time frame established in the notice, HFSRB staff shall schedule a public hearing on the proposed project and prepare and publish a Notice of Public Hearing. The Notice of Public Hearing shall consist of at least the following:
- 1) Identification of the subject to be heard;
  - 2) Identification of the law under which the subject is being heard;
  - 3) Identification of the agency conducting the hearing;
  - 4) Announcement of the time, date and location of the hearing;
  - 5) Announcement that the hearing is an open public meeting at which ~~opportunity will be afforded~~ all parties at interest will be afforded an opportunity to present written and/or verbal comments relevant to the project; and
  - 6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on 8½" by 11" paper.
- b) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

HFSRB NOTE: If the applicant or other person requests a public hearing on a proposed project after an application for permit has been submitted, but prior to the application being deemed complete or after a modification that requires an opportunity for a public hearing (pursuant to the provisions of this Part) is received, HFSRB staff shall not provide a Notice of Review and Opportunity for Public Hearing or Comment. ~~But~~ but shall, at the time the application is deemed complete or the modification is received, schedule a public hearing and prepare and publish a Notice of Public Hearing.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.940 Procedures for Public Hearing on Applications for Permit**

Procedures for public hearing shall include at least the following:

- a) A place of reasonable size and accessibility shall be provided;
- b) A hearing officer or officers ~~whowith~~ shall conduct the hearing and take all necessary steps to assure the hearing's proper completion;
- c) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;
- d) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;
- e) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;
- f) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and
- g) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to HFSRB staff for submission to HFSRB.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.950 Written Comments on Applications for Permit**

- a) Provision for and Types of Written Comments
  - 1) Written comments regarding an application and any supplemental information pertaining to an application shall be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of HFSRB.
  - 2) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.
- b) Submission of Comments
  - 1) Written comments are to be submitted to HFSRB or its Administrator at:

Illinois Health Facilities and Services Review Board  
525 West Jefferson St., 2<sup>nd</sup> Floor  
Springfield IL 62761
  - 2) Those written comments that have been addressed and submitted as described in this subsection will be included as part of the public record, provided that ~~HFSRB receives these~~ comments ~~have been received~~ within the prescribed time frame and in ~~accordance~~ with the requirements of this Subpart. Persons submitting comments are responsible for assuring that the Board's staff receive the comments within the prescribed time frame. No person shall knowingly provide ex parte comment to any HFSRB member or staff in contravention of Section 1130.630(d) (see 20 ILCS 3960/4.2).
- c) Format of Comments

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Written comments shall contain a signature and the name and address of the person submitting the comments. Written comments shall be on 8½" by 11" paper .
- 2) All written comments shall be submitted within the allowable time frames established in Sections 1130(b) and 1130.920(a)(5), and shall be sent only by any recognized overnight courier or personal delivery service.
- 3) Written comments submitted by email or fax will not be accepted.
- d) Forwarding of Comments to HFSRB and to Applicant  
~~HFSRB staff shall forward all timely written comments to HFSRB members~~All written comments that are received within the specified time frame will be forwarded by HFSRB staff to HFSRB members and ~~to the applicant~~ prior to in advance of the HFSRB meeting date.
- e) Ex Parte Comments  
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB or to the applicant.
- f) Validity of Comments
  - 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB ~~regarding~~under any Board matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation ~~of the matter.~~
  - 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.980 Procedures Concerning Public Hearing for Certificate of Exemption ~~for~~ Change of Ownership**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

The procedures pertaining to public hearing requirements concerning an application for exemption for a proposed change of ownership of a health care facility are as specified in Section 1130.520.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules**

- a) All proposed rulemaking is subject to the provisions of the IAPA.
- b) HFSRB will provide notice of the public comment period, together with the publication of the proposed rules in the Illinois Register, as part of the IAPA's First Notice requirements.
- c) HFSRB shall conduct public hearings on proposed rules, if requested in writing within 14 business days following the publication of the proposed rules in the Illinois Register. Notice of public hearings will be posted on the HFSRB website (<http://hfsrb.illinois.gov>).
- d) ~~Commenters~~ **Commenters** participating at a public hearing are encouraged to submit their testimony in writing.
- e) The entire proceedings of every HFSRB public hearing will be transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB public hearing.
- f) Written comments should be submitted in accordance with the First Notice requirements published in the Illinois Register.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.995 Procedures for Written Public Comment on All Other Matters**

Written public ~~Public~~ comment is permitted for all other matters subject to HFSRB proceedings that are not otherwise specified in this Part above (e.g., requests for alterations, renewals, extensions, declaratory rulings). ~~The~~ **Public** comment shall identify the subject matter and conform to be in conformance with the following:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) Persons who ~~have~~ previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.
- b) HFSRB staff must receive all public comment ~~shall be received by HFSRB staff~~ no later than 20 days prior to HFSRB's tentatively scheduled consideration of the matter ~~by HFSRB~~. If that date of consideration is extended, ~~then~~ the public comment period ~~shall~~will also be extended.
- c) Comments shall be in writing. ~~Written comments are to be submitted to HFSRB staff.~~ Only those written comments ~~that have been~~ addressed or submitted to HFSRB or its Administrator and received at HFSRB headquarters shall be included as part of the public record, provided that HFSRB receives the ~~such~~ comments ~~have been received~~ within the prescribed time frame and the comments meet ~~are in accord with~~ the requirements of this Subpart. Persons submitting comments are responsible for assuring that HFSRB staff receive the comments within the prescribed time frame. In addition, persons providing comments to HFSRB ~~shall be responsible to~~ assure that the ~~any~~ submission is not in violation of the ex parte provisions of the Act.
- d) Written comments shall contain a signature and the name and address of the person submitting the comments. Written comments shall be on 8½" by 11" paper.
- e) All written comments shall be submitted within the ~~allowable~~ time frames established in subsection (b) and shall be sent only by any recognized overnight courier or personal delivery service.
- f) Written comments that are submitted by fax or email will not be accepted.
- g) Ex Parte Comments  
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB or to the applicant and shall not be considered in making a determination.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130.1020 Initiation of a Contested Case (Pleadings)**

- a) In contested cases, in which HFSRB is required to serve ~~on the~~ respondent a ~~notice~~ Notice of ~~opportunity~~ Opportunity for an ~~administrative hearing~~ Administrative Hearing, that notice shall contain:
- 1) *a statement of the nature of the action;*
  - 2) *a statement of the legal authority and jurisdiction under which the action is being initiated;*
  - 3) *a reference to the particular Sections of the statutes and/or rules involved;*
  - 4) allegations of noncompliance;
  - 5) a statement of the procedure for requesting an administrative hearing, including a date by which the request must be received by HFSRB, which must be set at least 10 days after the notice is mailed or personally served;
  - 6) *except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number. [5 ILCS 100/10-25]*
- b) A person who receives a Notice of an Opportunity for an Administrative Hearing shall submit a written request for a hearing to HFSRB. The request shall be sent to HFSRB at the address stated in the notice and shall be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.
- c) Upon ~~receiving receipt of~~ a timely request for hearing, HFSRB shall issue a ~~notice~~ Notice of ~~hearing~~ Hearing or ~~prehearing conference~~ Prehearing Conference. *The notice of hearing or prehearing conference shall contain:*
- 1) *a statement of the nature of the hearing;*
  - 2) *a statement of the time and place that the hearing or prehearing conference will be held;*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) *a statement of the legal authority and jurisdiction under which the hearing is to be held; and*
  - 4) *the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law. [5 ILCS 100/10-25]*
- d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.
  - e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.
  - f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.1030 Waiver of Hearing**

An applicant waives the right to a hearing if, after HFSRB issues a denial, the applicant submits a modified application for permit. An applicant also waives the right to a hearing if the applicant does not request a hearing within the required timeframe. ~~applicant's right to an administrative hearing on an application denied by HFSRB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. If an administrative hearing is not requested within the required timeframe, the right to an administrative hearing is waived.~~ Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFSRB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.1040 Parties to Hearings**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) The parties to proceedings before HFSRB are complainants, applicants, respondents, and intervenors.
- b) HFSRB shall be deemed a complainant in any proceedings initiated by its own action.
- c) An applicant is the person required by the Act to obtain a permit from HFSRB who files an application with HFSRB.
- d) ~~A respondent is a party other than an applicant against whom a complaint or petition is filed.~~
- de) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before HFSRB. These persons are defined as:
  - 1) the ~~area-wide~~areawide health planning organization for the health service area in which the proposed project is to be located;
  - 2) ~~the area-wide~~areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);
  - 3) any person residing within the geographic area served or to be served by the applicant;
  - 4) any person who regularly uses health care facilities within that geographic area;
  - 5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;
  - 6) health care facilities and HMOs that, prior to ~~receipt by~~HFSRB staff receivingof the application being reviewed, have formally indicated an intention to provide similar services in the future;
  - 7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and
- 9) IDPH.

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.1080 Disqualification of Administrative Law Judge**

Prior to the commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFSRB. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFSRB determines that bias or a conflict of interest exists, it shall grant the motion and the HFSRB Chairman shall appoint a new administrative law judge within 30 days after HFSRB's determination. *An adverse ruling, in and of itself, shall not constitute bias or conflict of interest* [5 ILCS 100/10-30].

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

**Section 1130.1130 Motions**

- a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear on record shall be supported by affidavit.
- b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.
- d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by HFSRB, but may make a recommendation to HFSRB any time that circumstances merit such a recommendation.
- e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the hearing. Motions for a continuance shall be made immediately when the party learns that a continuance is needed and statements as to when the party learned that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:
  - 1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;
  - 2) there is an emergency; or
  - 3) all parties so stipulate.
- f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.
- g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.
- h) Responses shall be in writing unless made at a prehearing conference or a hearing.
- i) Demands for a Bill of Particulars shall not be allowed.
- j) All motions under this Section shall be filed with the administrative law judge.

---

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds**

In accordance with P.A. 96-31, the following capital expenditure minimums/review thresholds become effective July 1, ~~2015~~2012. These thresholds were adjusted by 2.5% in accordance with P.A. 96-31. The source for the increases is RS Means.

Capital Expenditure (Hospitals)	<del>\$12,797,313</del> <u>12,182,576</u>
Capital Expenditure (Long-Term Care)	<del>\$7,233,262</del> <u>6,885,803</u>
Capital Expenditure (All Other Applicants)	<del>\$3,338,430</del> <u>3,178,064</u>

(Source: Amended at 40 Ill. Reg. 14647, effective October 14, 2016)

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4404
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
4404.40	Amendment
4404.ILLUSTRATION A	Amendment
- 4) Statutory Authority: Implementing Section 3-110 and 3-110.7 and authorized by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-110 and 3-110.7]
- 5) Effective Date of Rules: October 17, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 5817; April 8, 2016
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Difference(s) between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: With the enactment of PA 96-1495, a second benefit tier was constructed for police officers participating in Article 3 pension funds. Actuarial liabilities for this tier are calculated differently than those for Tier 1. Therefore, the actuarial valuations are based on the type of tier. Currently, the type of tier is not

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

provided to the Department. The amendment to Section 4404.40 is in the heading only. The amendment to Part 4404.Illustration A will add a line to the form to indicate under which benefit tier the officer in question participates in order to appropriately calculate the true cost of transferring that individual's creditable service time between Article 3 pension funds. This will allow the Department's enrolled actuary to perform the proper actuarial valuation as required by the statute.

- 16) Information and questions regarding this adopted rules shall be directed to:

Daniel Rozkuszka  
Pension Analyst  
Illinois Department of Insurance  
122 S. Michigan Ave., 19<sup>th</sup> Floor  
Chicago IL 60603

312/814-2246

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER aaa: PENSIONSPART 4404  
PORTABILITY OF CREDITABLE SERVICE TIME FOR  
DOWNSTATE AND SUBURBAN POLICE PENSION FUNDS

Section	
4404.10	Purpose
4404.20	Applicability
4404.30	Definitions
4404.40	Request and <del>Rescission</del> <a href="#">Recision</a> Notifications
4404.50	Method for Calculation of the True Cost
4404.60	Current Fund Notification Requirement
4404.70	Prior Fund Notification Requirement
4404.73	Calculation of the Amount to be Transferred from the Prior Pension Fund to the Current Pension Fund
4404.76	Calculation of the Amount Required to Reinstate Creditable Service if a Refund was Received
4404.80	Current Fund Payment Schedule, Determination of Creditable Service Time to be Credited and Notification to the Police Officer
4404.90	Final Authorization to Transfer or Withdraw
4404.100	Transfer of Creditable Service Time
4404.110	Failure to Pay, or Death of the Officer
4404.120	Forfeiture
4404.130	Current Pension Fund Reporting Requirements
4404.140	Failure to Comply
4404.ILLUSTRATION A	DOI Information Request for an Officer's Creditable Service Transfer
4404.ILLUSTRATION B	DOI Information Request for a Chief of Police's Creditable Service Transfer (Repealed)

AUTHORITY: Implementing Section 3-110 and 3-110.7, and authorized by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-110 and 3-110.7].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 16453, effective December 9, 1997, for a maximum of 150 days; adopted at 22 Ill. Reg. 8391, effective May 4, 1998; amended at 24 Ill.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

Reg. 7287, effective April 26, 2000; amended at 35 Ill. Reg. 2120, effective January 24, 2011; amended at 40 Ill. Reg. 14751, effective October 17, 2016.

**Section 4404.40 Request and ~~Rescission~~ Recision Notifications**

Any police officer who is an active member of an Article 3 police pension fund must submit a written request to his or her current pension fund board of trustees identifying, by date and time frame, the accumulated creditable service to be transferred from the prior police pension funds and the prior pension funds. The police officer must also identify any creditable service time that the officer is required to reinstate pursuant to Section 3-110.7(b) of the Illinois Pension Code [40 ILCS 5/3-110.7(b)] in order for it to qualify as creditable service time to be transferred. When requesting to transfer accumulated creditable service, all accumulated creditable service with that prior pension fund must be transferred out of that prior pension fund.

(Source: Amended at 40 Ill. Reg. 14751, effective October 17, 2016)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

**Section 4404.ILLUSTRATION A DOI Information Request for an Officer's Creditable Service Transfer**

Please Forward This Request To:

Illinois Department of Insurance  
Public Employee Pension Division  
320 West Washington Street  
Springfield, Illinois 62767-0001

Within 30 working days after the Illinois Department of Insurance receives this request the Department will provide the current pension fund with the actuarial accrued liability, and reserve, amounts to be used in determining the true cost of transferring creditable service time.

1. Officer's Name: \_\_\_\_\_

2. SS#: \_\_\_\_\_

3. D.O.B.: \_\_\_\_\_

4. **Benefit Tier\*:** Tier 1  Tier 2

54. Entry Date into Current Fund: \_\_\_\_\_

65. Date Current Pension Fund Received Request for Transfer of Creditable Service:  
\_\_\_\_\_

76. Officer's Age at the Time the Current Pension Fund Receives the Request for Transfer of Creditable Service:  
\_\_\_\_\_

87. Current Annual Salary of the Officer as of the Date the Current Pension Fund Received the Request for Transfer of Creditable Service:  
\_\_\_\_\_

98. Years, Months and Days of Creditable Service Time in Current Fund to Date Current Pension Fund Receives Request for Transfer of Creditable Service:  
\_\_\_\_\_

109. Date(s) of Any Service Breaks from Current Fund Where Service Credit Was Not Given: \_\_\_\_\_

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

| [1140](#). Entry Date into Prior Pension Fund(s): \_\_\_\_\_

| [1241](#). Date of Termination from Prior Pension Fund(s): \_\_\_\_\_

| [1342](#). Years, Months and Days of Creditable Service Time Being Transferred from Prior Pension Fund(s): \_\_\_\_\_

| [1443](#). Date(s) of Any Service Breaks from Prior Pension Fund Where Service Credit Was Not Given: \_\_\_\_\_

| [1544](#). Current Pension Fund Contact Person, Mailing Address and Telephone Number:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

| [1645](#). Pension Fund Trustee Name, Signature and Date:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* [Check the Tier 1 box for a participant who first became a police officer under Article 3 before January 1, 2011, regardless of whether the participant has received a refund. Check the Tier 2 box for a participant who first became a police officer under Article 3 on or after January 1, 2011. \(See 40 ILCS 5/3-111\(d\).\)](#)

(Source: Amended at 40 Ill. Reg. 14751, effective October 17, 2016)

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Information
- 2) Code Citation: 2 Ill. Adm. Code 2500
- 3) Section Number: 2500.10                      Adopted Action:  
Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) Effective Date of Rule: October 12, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Illinois Labor Relation Board's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: As this is an internal rulemaking, First Notice was not required.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were recommended by JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this part? No
- 15) Summary and Purpose of Rulemaking: The Board's Springfield office relocated from One Natural Resources Way, First Floor, Springfield IL 62702, to 801 South Seventh Street, Ste. 1200-A, Springfield IL 62703. The proposed amendment to Rule 2500.10 reflects the updated address.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT

Anna Hamburg-Gal  
Associate General Counsel  
Illinois Labor Relations Board  
160 N. LaSalle, Ste. 400  
Chicago IL 60601

312/793-6380  
Anna.Hamburg-Gal@Illinois.Gov

The full text of the Adopted Amendment begins on the next page:

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XLI: ILLINOIS LABOR RELATIONS BOARDPART 2500  
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

## SUBPART A: PUBLIC INFORMATION

Section	
2500.10	General Information
2500.20	Procedural Information
2500.30	Access to Board Materials

## SUBPART B: RULEMAKING

Section	
2500.110	Procedure
2500.120	Petition for Rulemaking

## SUBPART C: ORGANIZATION

<u>Section</u>	
2500.210	Composition of the Board
2500.220	Staff Structure

2500.APPENDIX A Illinois Labor Relations Board Organizational Chart

2500.APPENDIX B State Board Organization Chart (Repealed)

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5(j) of the Illinois Public Labor Relations Act [5 ILCS 315/5].

SOURCE: Adopted at 9 Ill. Reg. 10077, effective June 17, 1985; amended at 12 Ill. Reg. 22210, effective December 8, 1988; corrected at 13 Ill. Reg. 2883; amended at 20 Ill. Reg. 7396, effective May 10, 1996; amended at 38 Ill. Reg. 19955, effective October 2, 2014; amended at 40 Ill. Reg. 14757, effective October 12, 2016.

## ILLINOIS LABOR RELATIONS BOARD

## NOTICE OF ADOPTED AMENDMENT

## SUBPART A: PUBLIC INFORMATION

**Section 2500.10 General Information**

- a) The Illinois Labor Relations Board maintains offices in both Chicago and Springfield.
- 1) The Board's Springfield office is located at:  
801 South Seventh Street, Ste. 1200-A  
Springfield, IL 62703  
~~One Natural Resources Way~~  
~~First Floor~~  
~~Springfield, Illinois 62702-1271~~  
telephone: 217-785-3155  
facsimile: 217-785-4146
  - 2) The Board's Chicago office is located at:  
160 North LaSalle Street  
Suite S-400  
Chicago, Illinois 60601-3103  
telephone: 312-793-6400  
facsimile: 312-793-6989
- b) The Local Panel of the Illinois Labor Relations Board has jurisdiction *over collective bargaining matters between employee organizations and units of local government with a population in excess of 1 million persons, but excluding the Regional Transportation Authority* [5 ILCS 315/5(b)]. Such units include the County of Cook, the City of Chicago, the Chicago Transit Authority, the Metropolitan Sanitary District of Greater Chicago, the Chicago Housing Authority and the Chicago Park District.
- c) The State Panel of the Illinois Labor Relations Board has jurisdiction over collective bargaining matters between employee organizations and public employers as defined in Section 3(o) of the Act and the Regional Transportation Authority [5 ILCS 315/5(a)] except for units of local government in excess of 1 million persons and school districts.
- d) The State Panel and Local Panel may also meet in joint session to handle administrative and rulemaking matters affecting the Board.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT

- e) Information regarding the docket of pending cases and their status may be obtained by writing or telephoning a Board agent at either office.

(Source: Amended at 40 Ill. Reg. 14757, effective October 12, 2016)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2465                      Adopted Action:  
New Section
- 4) Statutory Authority: [35 ILCS 5/203(a)(2)(P), 203(b)(2)(Q), 203(c)(2)(P) and 203(d)(2)(M)]
- 5) Effective Date of Rule: October 12, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 7522; May 20, 2016
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
100.8010	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.9400	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.5060	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5100	Amendment	40 Ill. Reg. 6540; April 15, 2016

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

100.5130	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.7035	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5215	Amendment	40 Ill. Reg. 7297; May 13, 2016

- 15) Summary and Purpose of Rulemaking: This rulemaking adds Section 100.2465 to 86 Ill. Adm. Code Part 100, providing guidance on the subtraction modification allowed to taxpayers who were allowed a federal income tax itemized deduction, or a federal income tax credit in lieu of a deduction, as the result of repaying an amount that had been included in taxable income in a previous year under the "claim of right" doctrine.

- 16) Information and questions regarding this adopted amendment shall be directed:

Brian Stocker  
Staff Attorney  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield IL 62796

217/782-2844

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

## SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES  
OCCURRING ON OR AFTER DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

## SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

- Section
- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

## SUBPART F: BASE INCOME OF INDIVIDUALS

- Section
- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

## Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

## SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

## Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

## SUBPART K: COMPENSATION

## Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

## SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3371 Sales Factor for Telecommunications Services
- 100.3373 Sales Factor for Publishing
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3450 Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

## SUBPART N: ACCOUNTING

## Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

## SUBPART O: TIME AND PLACE FOR FILING RETURNS

## Section

- 100.5000 Time for Filing Returns (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions
- 100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

## SUBPART P: COMPOSITE RETURNS

## Section

- 100.5100 Composite Returns: Eligibility
- 100.5110 Composite Returns: Responsibilities of Authorized Agent
- 100.5120 Composite Returns: Individual Liability
- 100.5130 Composite Returns: Required forms and computation of Income
- 100.5140 Composite Returns: Estimated Payments
- 100.5150 Composite Returns: Tax, Penalties and Interest
- 100.5160 Composite Returns: Credits on Separate Returns
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
- 100.5180 Composite Returns: Overpayments and Underpayments

## SUBPART Q: COMBINED RETURNS

## Section

- 100.5200 Filing of Combined Returns
- 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
- 100.5205 Election to File a Combined Return
- 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
- 100.5215 Filing of Separate Unitary Returns
- 100.5220 Designated Agent for the Members
- 100.5230 Combined Estimated Tax Payments
- 100.5240 Claims for Credit of Overpayments
- 100.5250 Liability for Combined Tax, Penalty and Interest
- 100.5260 Combined Amended Returns
- 100.5265 Common Taxable Year
- 100.5270 Computation of Combined Net Income and Tax
- 100.5280 Combined Return Issues Related to Audits

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

## SUBPART R: PAYMENTS

## Section

100.6000 Payment on Due Date of Return (IITA Section 601)

## SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

## Section

100.7000 Requirement of Withholding (IITA Section 701)  
100.7010 Compensation Paid in this State (IITA Section 701)  
100.7020 Transacting Business Within this State (IITA Section 701)  
100.7030 Payments to Residents (IITA Section 701)  
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust  
Beneficiaries (IITA Section 709.5)  
100.7040 Employer Registration (IITA Section 701)  
100.7050 Computation of Amount Withheld (IITA Section 702)  
100.7060 Additional Withholding (IITA Section 701)  
100.7070 Voluntary Withholding (IITA Section 701)  
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)  
100.7090 Reciprocal Agreement (IITA Section 701)  
100.7095 Cross References

## SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

## Section

100.7100 Withholding Exemption (IITA Section 702)  
100.7110 Withholding Exemption Certificate (IITA Section 702)  
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART U: INFORMATION STATEMENT

## Section

100.7200 Reports for Employee (IITA Section 703)

## SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

## Section

100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704  
and 704A)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)
- 100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
- 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

## SUBPART W: ESTIMATED TAX PAYMENTS

## Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

## SUBPART X: COLLECTION AUTHORITY

## Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

## SUBPART Y: NOTICE AND DEMAND

## Section

- 100.9100 Notice and Demand (IITA Section 902)

## SUBPART Z: ASSESSMENT

## Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

## SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section	
100.9300	Deficiencies and Overpayments (IITA Section 904)
100.9310	Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320	Limitations on Notices of Deficiency (IITA Section 905)
100.9330	Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART BB: CREDITS AND REFUNDS

Section	
100.9400	Credits and Refunds (IITA Section 909)
100.9410	Limitations on Claims for Refund (IITA Section 911)
100.9420	Recovery of Erroneous Refund (IITA Section 912)

## SUBPART CC: INVESTIGATIONS AND HEARINGS

Section	
100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

## SUBPART DD: JUDICIAL REVIEW

Section	
100.9600	Administrative Review Law (IITA Section 1201)

## SUBPART EE: DEFINITIONS

Section	
100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

## SUBPART FF: LETTER RULING PROCEDURES

Section  
100.9800 Letter Ruling Procedures

## SUBPART GG: MISCELLANEOUS

Section  
100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents  
100.TABLE A Example of Unitary Business Apportionment  
100.TABLE B Example of Unitary Business Apportionment for Groups Which  
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg.

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016.

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

**Section 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))**

- a) In computing base income, a taxpayer may subtract from federal taxable income or adjusted gross income an amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to IRC section 1341 or of any itemized deduction taken from adjusted gross income in the computation of taxable income for restoration of substantial amounts held under claim of right for the taxable year. (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- b) For federal income tax purposes, if a taxpayer is required to include a receipt in taxable income under the "claim of right" principle because the taxpayer had an unrestricted right to the item when received, and is subsequently required to repay the item, the taxpayer must deduct the repayment in the year of repayment, rather than exclude the receipt from income. However, IRC section 1341 allows some taxpayers to claim a credit against their federal income tax liability in the year of repayment equal to the tax attributable to the inclusion of the receipt in taxable income, in lieu of the deduction. In order to avoid taxing income received under a claim of right that is subsequently repaid, IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M) allows a taxpayer who claimed a credit under IRC section 1341 for a taxable year to subtract an amount equal to the amount of the repayment that would otherwise have been deductible in that taxable year.
- c) In the case of an individual, the deduction allowed for repayment of claim of right income is an itemized deduction taken from adjusted gross income. Because, in the case of an individual, the computation of base income begins with the taxpayer's adjusted gross income, an individual is allowed no deduction for repayment of claim of right income unless expressly provided in IITA Section 203. (See IITA Section 203(a)(1) and (h).) In 2011, Public Act 97-0507 amended IITA Section 203(a)(2)(P) to allow individuals who had claimed an itemized deduction for repayment of claim of right income to subtract the amount of that deduction from their adjusted gross income. This amendment is not, by its terms, required to be applied prospectively only, and the subtraction will be allowed for any taxable year, subject to the statute of limitations for claims for refund.

(Source: Added at 40 Ill. Reg. 14762, effective October 12, 2016)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received during the period of October 11, 2016 through October 17, 2016. The rulemakings are scheduled for review at the Committee's November 15, 2016 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
11/20/16	<u>Department of Insurance</u> , Medical Professional Liability Database (50 Ill. Adm. Code 928)	4/8/16 40 Ill. Reg. 5783	11/15/16

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION

Section 13.3 of the Environmental Protection Act (Act) [415 ILCS 5/13.3] requires the Board to adopt regulations that are "identical in substance" to U.S. Environmental Protection Agency (USEPA) regulations identical in substance to wastewater pretreatment rules adopted to implement 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the federal Water Pollution Control Act (33 U.S.C. §§ 1317(b), (c), and (d) & 1342(b)(8) and (b)(9) (2014)). These rules are contained in 35 Ill. Adm. Code 307 and 310.

Section 7.2(a) of the Act [415 ILCS 5/7.2(a)] requires the Board to complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) [415 ILCS 5/7.2(b)] allows the Board to extend the deadline for adoption by publication of a notice of reason for delay in the *Illinois Register*.

By an order dated October 6, 2016, the Board set forth reasons for delay and extended the deadline for final action on the amendments from October 22, 2016 to March 31, 2017. That order stated in significant part as follows:

TIMETABLE TO COMPLETE RULEMAKING

The Board ordinarily would complete this rulemaking no later than October 22, 2016 (one year after the earliest USEPA action included in the docket). However, the proposed amendments require more time to complete. The Board, therefore, will extend the due date to March 31, 2017. The Board may extend the time allotted to complete an identical-in-substance rulemaking if the one-year period is insufficient. 415 ILCS 5/7.2(b) (2014). The Board must explain the extension and publish notice in the *Illinois Register*.

This rulemaking cannot be completed by October 22, 2016 for two reasons. First, completing the identical-in-substance in RCRA Subtitle C Update, USEPA Amendments (January 1, 2015 through June 30, 2015), R16-7 (June 16, 2016) (filed and effective August 9, 2016) required considerable effort and did not allow focus on the wastewater pretreatment amendments until recently. Second, the federal NPDES electronic reporting rule (NPDES-ERR) is complex and contains only certain provisions relevant to wastewater pretreatment. (The Board does not incorporate aspects of the federal rule that do not relate to wastewater pretreatment.)

The Board proposes the following schedule:

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION

Final adoption:	January 31, 2017
Board order proposing amendments:	October 6, 2016
Submission for <i>Illinois Register</i> publication:	October 17, 2016
Estimated <i>Illinois Register</i> publication date:	October 28, 2016
Estimated End of 45-day public comment period:	December 12, 2016
Board order adopting amendments:	January 5, 2017
Estimated filing and effective date:	January 16, 2017
Estimated <i>Illinois Register</i> publication date:	January 27, 2017

The Board directs the Clerk to cause publication of a Notice of Public Information on Proposed Rules in the *Illinois Register*. The publication will state the reasons for extending the time limit to March 31, 2017.

Direct inquiries as follows, referencing consolidated docket R16-9:

Michael J. McCambridge, Staff Attorney  
Illinois Pollution Control Board  
312/814-6924 or michael.mccambridge@illinois.gov

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD  
PURSUANT TO 415 ILCS 5/10(H) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing  
for State Implementation Plan (SIP) Submittals  
for National Ambient Air Quality Standards (NAAQS)

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective NAAQS SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the proposed amendment appears in the *Illinois Register*, presently anticipated in a November 2016 issue, and a public hearing will occur by videoconference between Chicago and Springfield on December 7, 2016. The Board presently anticipates adoption of amendments to the Illinois ambient air quality standards on January 5, 2017, or within a short time after that date.

Section 10(H) of the Environmental Protection Act (Act) [415 ILCS 5/10(H)] requires the Board to do as follows:

[T]he Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere, those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act [(42 U.S.C. § 7409 (2013))].

The USEPA NAAQS are codified at 40 C.F.R. § 50. The Board is required to adopt those exemptions using the "identical in substance" rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 243.

On October 27, 2016, the Board adopted a proposal for public comment in docket R17-1 to initiate adoption of the latest USEPA amendments to and actions affecting the federal NAAQS during the first half of 2016.

- On January 26, 2016 (81 Fed. Reg. 4294), USEPA designated one new equivalent method (FEM) for particulates (PM<sub>10</sub>) in ambient air.
- On April 28, 2015 (80 Fed. Reg. 25397), USEPA designated one new FRM for PM<sub>10</sub>, one new FRM for coarse particulates (PM<sub>10-2.5</sub>), one new FRM for fine particulates (PM<sub>2.5</sub>), one new FRM for ozone (O<sub>3</sub>), and two new FEMs for PM<sub>2.5</sub> in ambient air.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

- On June 17, 2016, USEPA issued an updated version of its *List of Designated Reference and Equivalent Methods (List of Designated Methods)*. The update included the four new FRMs and two new FEMs included in the January 26, 2016 and April 28, 2015 *Federal Register* notices.

The Board added one USEPA action that occurred after June 30, 2016 for the purpose of administrative economy:

- On July 18, 2016 (81 Fed. Reg. 45284), USEPA designated one new FRM for PM<sub>10</sub>, one new FRM for sulfur dioxide (SO<sub>2</sub>), two new FEMs for PM<sub>2.5</sub>, one new FEM for PM<sub>10</sub>, and one new FEM for PM<sub>10-2.5</sub> in ambient air.

A Notice of Proposed Amendment will appear in the *Illinois Register* relative to the docket R17-1 proposal later in November 2016.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments to USEPA to be included in or to revise the Illinois SIP pertaining to one or more ambient air quality priority pollutants (carbon monoxide, lead nitrogen oxides, ozone, particulate matter, and sulfur dioxide) pursuant to section 110 of the federal Clean Air Act (42 U.S.C. § 7410(a) (2013)) and the implementing USEPA regulations. *See* 40 C.F.R. § 51.102 and appendix V (2015).

As USEPA will require the State to have conducted a hearing on the amendments to the Illinois NAAQS rules involved in this proceeding pursuant to 42 U.S.C. § 4210(a) and 40 C.F.R. § 51.102, the Board has scheduled a public hearing in this matter to occur by videoconference between two locations, as follows:

1:30 p.m., December 7, 2016

James R. Thompson Center  
Illinois Pollution Control Board Hearing Room  
100 West Randolph Street, Room 11-512  
Chicago

and

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

Sangamo Building  
Illinois Pollution Control Board Hearing Room  
1021 North Grand Avenue  
Springfield

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board addressed as follows:

Office of the Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago IL 60601

All comments relating to this rulemaking should clearly refer to docket number R17-1.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2014) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The January 26, 2016, April 28, 2015, and July 18, 2016 *Federal Register* notices that prompted this action (referenced in the Board's October 27, 2016 opinion and order proposing amendments);
- The June 17, 2016 update to the List of Designated Methods that prompted this action (referenced in the Board's October 27, 2016 opinion and order proposing amendments);
- Federal statutes and regulations referenced in the Board's October 27, 2016; and
- Illinois statutes and regulations referenced in the Board's October 27, 2016 opinion and order.

The Board requests that interested persons direct questions to the following person:

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

Michael J. McCambridge, Staff Attorney  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago IL 60601  
312/814-6924  
michael.mccambridge@illinois.gov

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Clerk of the Board  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago IL 60601  
312/814-3629  
john.therriault@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on January 5, 2017 or shortly thereafter. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD  
PURSUANT TO 415 ILCS 5/9.1(e) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing for  
State Implementation Plan (SIP) Submittals for Ozone

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective ozone SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the proposed amendment appears in the *Illinois Register*, presently anticipated in a November 2016 issue, and a public hearing will occur by teleconference between Chicago and Springfield on December 7, 2016. The Board presently anticipates adoption of revisions to an existing exemption from the definition of volatile organic material (VOM) on January 5, 2017, or within a short time after that date.

Section 9.1(e) of the Environmental Protection Act (Act) [415 ILCS 5/9.1(e)] requires the Board to "exempt from regulation under the SIP for ozone the [VOMs] which have been determined by (USEPA) to be exempt from regulation under [SIPs] for ozone due to negligible photochemical reactivity." The USEPA listing of these compounds is codified at 40 C.F.R. 51.100(s). The Board is required to adopt those exemptions using the "identical in substance" rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 211.7150.

On October 27, 2016, the Board adopted a proposal for public comment in docket R17-2 to initiate adoption of the latest USEPA exemptions from the definition of VOM during the first half of 2016.

- On February 25, 2016 (81 Fed. Reg. 9339), USEPA revised the existing exclusion of *tert*-butyl acetate in the list of chemical species excluded from the federal definition of VOC.

A Notice of Proposed Amendment will appear in the *Illinois Register* relative to the docket R17-2 proposal later in November 2016.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments as a revision to the Illinois SIP for ozone pursuant to section 110 of the federal Clean Air Act (42 U.S.C. § 7410(a) (2013)) and the implementing USEPA regulations. See 40 C.F.R. § 51.102 and appendix V (2015).

Section 9.1(a) of the Act [415 ILCS 5/9.1(a)] requires the Board to "provide for notice, a hearing if required by [USEPA], and public comment before adopted rules are filed with the Secretary of

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

State." As USEPA will require the State to have conducted a hearing on the exemption from the definition of VOM involved in this proceeding pursuant to 42 U.S.C. § 4210(a) and 40 C.F.R. § 51.102, the Board has scheduled a public hearing in this matter to occur by teleconference between two locations, as follows:

1:45 p.m., December 7, 2016

James R. Thompson Center  
Illinois Pollution Control Board Hearing Room  
100 West Randolph Street, Room 11-512  
Chicago

and

Sangamo Building  
Illinois Pollution Control Board Hearing Room  
1021 North Grand Avenue  
Springfield

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board at:

Office of the Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

All comments relating to this rulemaking should clearly refer to docket number R17-2.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2014) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The February 25, 2016 *Federal Register* notice that prompted this action (referenced in the Board's October 27, 2016 opinion and order proposing amendments);

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

- Federal statutes and regulations referenced in the Board's October 27, 2016 opinion and order; and
- Illinois statutes and regulations referenced in the Board's October 27, 2014 opinion and order.

The Board requests that interested persons direct questions to the following person:

Michael J. McCambridge, Staff Attorney  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Clerk of the Board  
Pollution Control Board  
100 West Randolph Street, Room 11-500  
Chicago IL 60601

312/814-3629  
john.therriault@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on February 5, 2017. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

## PROCLAMATIONS

**2016-262  
Independent Retailers Week**

WHEREAS, Independent Retailers Week provides a time to celebrate the entrepreneurial spirit represented by our core of local independent retailers; and,

WHEREAS, the individual decisions every community member makes affect the future of our state; and

WHEREAS, our State's local independent retailers help preserve the uniqueness of the community and give us a sense of place; and,

WHEREAS, the core of independently-owned retailers give back to the community in goods, services, time and talent; and,

WHEREAS, the health of our state's economy depends on our support of businesses owned by our friends and neighbors; and,

WHEREAS, Illinois's independent retail owners and employees enrich community members' shopping experiences with their knowledge & passion; and,

WHEREAS, as we celebrate Independent Retailer Week 2016, we acknowledge the contribution these retailers make to our state;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim September 26-30, 2016, as **INDEPENDENT RETAILERS WEEK** in Illinois and encourage all citizens to support the businesses that support their communities.

Issued by the Governor September 23, 2016

Filed by the Secretary of State October 17, 2016

**2016-263  
American Pharmacists Month**

WHEREAS, pharmacy is one of the oldest of the health care professions, dedicated to the health and well-being of all people; and,

WHEREAS, today, there are more than 300,000 pharmacists licensed in the United States and nearly 19,500 licensed pharmacists in Illinois, providing service and health care counseling to assure the rational and safe use of all medications; and,

## PROCLAMATIONS

WHEREAS, the effective and safe use of medication, when monitored by a licensed pharmacist, is a cost-effective alternative to more expensive medical procedures and is becoming a major force in moderating overall health care costs; and,

WHEREAS, today's advanced medications require greater attention to the manner in which they are used by different patient population groups, both clinically and demographically; and,

WHEREAS, pharmacists, as health care providers, are specifically educated with a focus and level of expertise on medication therapy and are ideally suited to work collaboratively with other health care providers and patients to improve medication use and outcomes; and,

WHEREAS, pharmacists ensure the integrative safety of drug use by diligently working to reduce medication abuse, discontinuing medications with no indication, and advocating for the safe use of all medications; and,

WHEREAS, the American Pharmacists Association and the Illinois Pharmacists Association have declared October as American Pharmacists Month with the theme "Know Your Pharmacist, Know Your Medicine";

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **AMERICAN PHARMACISTS MONTH** in Illinois in recognition of the vital contributions made by pharmacists to health care in our State.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-264****Breast Cancer Awareness Month and Mammography Day**

WHEREAS, October 2016 marks the 31st anniversary of National Breast Cancer Awareness Month, a season to educate women about breast cancer and the importance of early detection through mammography; and ,

WHEREAS, 1 in 8 women will be diagnosed with breast cancer in their lifetime; and,

WHEREAS, a projected 246,660 new cases of breast cancer will be diagnosed in women across the United States in 2016; and,

WHEREAS, 40,450 women are estimated to lose their lives to breast cancer in the year 2016; and,

## PROCLAMATIONS

WHEREAS, the Illinois Breast and Cervical Cancer Program (IBCCP) offers free breast exams and mammograms to uninsured and underinsured women; and,

WHEREAS, the IBCCP served 17,388 women with free breast and cervical cancer screenings in FY 2016; and,

WHEREAS, the IBCCP is projected to serve 16,905 women in Illinois with cancer screening and diagnostic services in FY 2017; and,

WHEREAS, an estimated 10,440 women in Illinois will be diagnosed with breast cancer in 2017; and,

WHEREAS, breast cancer is the most common cancer diagnosed in women other than skin cancer and is the second leading cause of cancer deaths for women; and,

WHEREAS, the best chance for detecting breast cancer early is through mammography screening, and earlier detection gives higher survival rates; and,

WHEREAS, since 1993, the United States has recognized the third Friday in October as National Mammography Day;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **BREAST CANCER AWARENESS MONTH** and October 21, 2016, as **MAMMOGRAPHY DAY** in Illinois, and encourage all citizens to join me in the continued fight against breast cancer.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-265****Certified Veterinary Technicians Week**

WHEREAS, Certified Veterinary Technicians are important members of the veterinary health care team, work in veterinary medicine throughout the nation, and are extremely important in the effort to provide quality animal health care to insure the humane treatment of all animals; and,

WHEREAS, there are more than 60 accredited programs throughout the United States which provide intensive study of the skills and knowledge to work competently as a Certified Veterinary Technician, including anatomy, physiology, microbiology, clinical techniques, pharmacology, anesthesiology, surgical and medical nursing, radiology, and clinical pathology training; and,

## PROCLAMATIONS

WHEREAS, it is extremely important that each Certified Veterinary Technician maintain certification, registration, or licensure through the successful completion of a national and/or state examination, practice lifelong learning through continuing education, and uphold high ethical standards; and,

WHEREAS, Certified Veterinary Technicians will join their colleagues across the country to urge all to become aware of the important contributions of Certified Veterinary Technicians to the health and well-being of all animals;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 16-22, 2016, as **CERTIFIED VETERINARY TECHNICIANS WEEK** in Illinois.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-266****College Changes Everything Month**

WHEREAS, Illinois has a goal of increasing the proportion of Illinois adults with a high-quality postsecondary credential to 60 percent by 2025; and,

WHEREAS, students and their families, particularly first-generation students, may not be aware of the financial aid available to them and can feel overwhelmed by the process of applying to college and for financial aid; and,

WHEREAS, providing students with college planning and financial aid counseling can help ensure all high school seniors have the opportunity to take critical steps toward continuing their education at a school that fits their needs and goals, minimizing student debt, and maximizing the chance for completing a degree or certificate program; and,

WHEREAS, the mission of the Illinois Student Assistance Commission (ISAC) is to help make college accessible and affordable for Illinois students, by providing free assistance with college planning and financial aid so Illinois students can better access financial aid and make more informed choices when choosing a postsecondary path; and,

WHEREAS, beginning this year, the Free Application for Federal Student Aid (FAFSA®) will be available on October 1, 2016, (rather than January 1, 2017) to apply for aid for the 2017-18 academic year; ISAC is combining the activities of College Application Month (October) with Financial Aid Awareness Month (previously held in February) to create the first annual College Changes Everything® (CCE) Month during the month of October; and,

## PROCLAMATIONS

WHEREAS, ISAC and members of the agency's Illinois Student Assistance Corps (ISACorps) of near-peer mentors will partner with high schools, community organizations, and other agencies and associations to support and host free college application and financial aid workshops and events during CCE Month and will also provide one-on-one assistance to students and families; and,

WHEREAS, these free workshops and events will be presented in public venues across the State during CCE Month to assist Illinoisans in college and financial aid planning that will help them meet their educational and career goals;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **COLLEGE CHANGES EVERYTHING MONTH** in Illinois and encourage students and families to take full advantage of the financial aid and college planning resources available in their communities.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-267**  
**Cooperative Week**

WHEREAS, cooperatives are democratically governed businesses that are run by and for their members – the people who use the co-op's services or buy its goods; and,

WHEREAS, cooperatives are motivated by producing quality goods or services that meet their members' needs; and,

WHEREAS, cooperative enterprises generate significant revenue and employment opportunities in Illinois by creating jobs and enhancing the quality of life for those in our state and throughout our country; and,

WHEREAS, more than 120 million people are members of the more than 48,000 cooperatives that operate in the United States, making a substantial contribution to the economy; and,

WHEREAS, cooperatives go above and beyond their core business functions to serve local communities, along with charitable giving to assist those less fortunate; and,

WHEREAS, during the week of October 10-17, 2016, cooperatives from all across America reaffirm their member-service mission, their commitment to community, and pledge continued active involvement in the communities in which their members live and work;

## PROCLAMATIONS

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 10-17, 2016, as **COOPERATIVE WEEK** in Illinois and encourage all citizens to recognize the importance of cooperatives from all industries that remain actively involved in their communities.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-268****Diabetes Awareness Month**

WHEREAS, diabetes affects 29.1 million people, 9.3 percent of the population in the United States, and is a serious disease for which there is no known cure and which is the seventh leading cause of death by disease in the United States; and,

WHEREAS, approximately one quarter of the Americans who have diabetes, 8.1 million people, do not know they have the disease and may experience damage to the heart, eyes, kidneys, and limbs without presenting any symptoms; and,

WHEREAS, another 86 million people have pre-diabetes, a condition which puts them at greater risk for developing Type 2 diabetes, and if current trends continue, 1 in 3 American adults will have diabetes by the year 2050; and,

WHEREAS, Type 1 diabetes (T1D) is an autoimmune disease in which a person's pancreas stops producing insulin; and,

WHEREAS, T1D occurs when the body's immune system attacks and destroys the insulin producing cells in the pancreas, and there is no prevention or present cure; and,

WHEREAS, T1D strikes both children and adults at any age and comes on suddenly, causing dependence on injected or pumped insulin for life, and carries the constant threat of devastating complications; and,

WHEREAS, diabetes has many faces, affecting everyone, young and old, and with minorities having an increased risk of developing the disease; and,

WHEREAS, an increase in community awareness of risk factors and symptoms related to diabetes can improve the likelihood that people with diabetes will get the attention they need before suffering the devastating complications of the disease;

## PROCLAMATIONS

THEREFORE, I, Bruce Rauner, Governor of Illinois, do hereby proclaim November 2016 as **DIABETES AWARENESS MONTH** in the State of Illinois, and encourage all citizens to help fight this disease and its deadly complications by increasing awareness of the risk factors for diabetes, and by providing support to those suffering from diabetes.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-269****Fire Prevention Week**

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are where people are at greatest risk from fire; and,

WHEREAS, according to the National Fire Protection Association (NFPA), U.S. fire departments responded to 369,500 home fires in 2014; and,

WHEREAS, U.S. home fires resulted in 2,745 civilian deaths in 2014, representing the majority (84 percent) of all U.S. fire deaths; and,

WHEREAS, in one-fifth of all homes with smoke alarms, the smoke alarms are not working; and,

WHEREAS, three out of five home fire deaths result from fires in properties without smoke alarms (38 percent) or with no working smoke alarms (21 percent); and,

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and,

WHEREAS, many Americans don't know how old the smoke alarms in their homes are, or how often they need to be replaced; and,

WHEREAS, all smoke alarms should be replaced at least once every 10 years; the age of a smoke alarm can be determined by the date of its manufacture, which is marked on the back of the smoke alarm;

WHEREAS, the 2016 Fire Prevention Week theme, "Don't Wait – Check the Date! Replace Smoke Alarms Every 10 Years" effectively serves to educate the public about the vital importance of replacing the smoke alarms in their homes at least every 10 years;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 9-15, 2016, as **FIRE PREVENTION WEEK** and I urge all the people of Illinois to find out how

## PROCLAMATIONS

old the smoke alarms in their homes are, to replace them if they're more than 10 years old, and to participate in the many public safety activities and efforts of Illinois fire and emergency services during Fire Prevention Week 2016.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-270****Get Smart About Antibiotics Week**

WHEREAS, the Illinois Department of Public Health seeks to promote the health of the people of Illinois through the prevention and control of disease and injury; and,

WHEREAS, antibiotics are lifesaving when used correctly for bacterial infections, but can cause individuals unnecessary and significant harm when used incorrectly; and,

WHEREAS, antibiotics become less effective for everyone as bacteria become resistant to them; and,

WHEREAS, up to 50 percent of antibiotics prescribed nationwide are unnecessary or not optimally effective; and,

WHEREAS, antibiotic resistance is a public health crisis, causing more than 2 million illnesses and at least 23,000 deaths in the United States each year; and,

WHEREAS, Illinois has high rates of outpatient antibiotic use, with 853 antibiotic prescriptions per 1000 people; and,

WHEREAS, antibiotic treatment is the primary risk factor for infection with *Clostridium difficile*, an infection commonly known as "deadly diarrhea", which is designated as an urgent threat to our nation's health by the Centers for Disease Control and Prevention; and,

WHEREAS, there were more than 15,000 cases of *Clostridium difficile* infections in Illinois hospitals reported to the National Healthcare Safety Network in 2015; and,

WHEREAS, coordinated efforts to improve antibiotic prescribing are essential to fight antibiotic resistance; and,

WHEREAS, working in partnership, the Illinois Department of Public Health, local organizations, and stakeholders seek to raise awareness and educate health care workers and the general public about the appropriate use of antibiotics;

## PROCLAMATIONS

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 14-20, 2016, as **GET SMART ABOUT ANTIBIOTICS WEEK** in Illinois, and encourage all Illinoisans to educate themselves, their families, and their communities about best practices regarding the appropriate use of antibiotics.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-271****Lights On Afterschool Day**

WHEREAS, the citizens of the State of Illinois stand firmly committed to quality afterschool programs and opportunities because they provide safe, challenging, and engaging learning experiences that help children develop social, emotional, physical, and academic skills; and,

WHEREAS, afterschool programs support working families by ensuring their children are safe and productive after the regular school day ends; and,

WHEREAS, these programs build stronger communities by involving students, parents, business leaders and adult volunteers in the lives of young people, thereby promoting positive relationships among youth, families, and adults; and,

WHEREAS, many afterschool programs across the country face funding shortfalls so severe that they are being forced to close their doors and turn off their lights; and,

WHEREAS, Lights On Afterschool, the national celebration of afterschool programs held this year on October 20, 2016, promotes the importance of quality afterschool programs in the lives of children, families, and communities; and,

WHEREAS, 19.4 million families report that they would enroll their child in an afterschool program if one were available; and,

WHEREAS, the State of Illinois is committed to investing in the health and safety of all young people by providing expanded learning opportunities that will help close the achievement gap and prepare young people to compete in the global economy;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 20, 2016, as **LIGHTS ON AFTERSCHOOL DAY** in Illinois, in recognition of Lights On Afterschool and the commitment of our State to engage in innovative afterschool programs and activities that ensure the lights stay on and the doors stay open for all children after school.

## PROCLAMATIONS

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-272****National Service Recognition Day**

WHEREAS, more than 13,500 people of all ages and backgrounds are serving in more than 2,200 national and local nonprofits, schools, faith-based organizations, and other groups across Illinois through national service programs; and,

WHEREAS, National Service Members serve their communities by improving education, protecting public safety, promoting healthy living, ensuring economic opportunity, safeguarding the environment, providing disaster relief, and promoting civic engagement; and,

WHEREAS, more than 2,200 AmeriCorps\*State and National, AmeriCorps\*VISTA, and AmeriCorps\*NCCC Members serving in Illinois will take their pledge and promise to carry this commitment to service throughout their lives; and,

WHEREAS, since 1994, more than 37,000 Illinoisans have served more than 52 million hours through AmeriCorps, which equals \$1.3 billion in impact; and,

WHEREAS, more than 11,000 Senior Corps Members are currently contributing their lifetime of experience and talents through the Foster Grandparent, Senior Companion, and Retired and Senior Volunteer (RSVP) programs; and the Social Innovation Fund is investing \$180,000 into 13 nonprofits in Illinois to act as a catalyst for growth; and,

WHEREAS, the Serve Illinois Commission on Volunteerism and Community Service is charged with enhancing and supporting community volunteerism in all its forms and in the administration of the AmeriCorps\*State program in Illinois;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, proclaim October 12, 2016, as **NATIONAL SERVICE RECOGNITION DAY** in Illinois, and congratulate Illinois' family of national service volunteers, both past and present, on their service in strengthening communities through volunteerism in the State of Illinois.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-273****Project Management Institute Day**

## PROCLAMATIONS

WHEREAS, the Project Management Institute (PMI) Chicagoland Chapter was chartered in 1977 and today has more than 4,000 members in the Chicago metropolitan area; and,

WHEREAS, PMI professionals come from virtually every major industry including aerospace, automotive, business management, construction, engineering, financial services, information technology, pharmaceuticals, healthcare, and telecommunications; and,

WHEREAS, core objectives of PMI Chicagoland Chapter include providing value to its members, increasing awareness about the importance of project management, and increasing awareness of the PMI certification process; and,

WHEREAS, the mission of PMI Chicagoland Chapter is to promote project management knowledge as well as standards and ethical practices for its members, the profession, and the community; and,

WHEREAS, PMI Chicagoland will host its 6th Annual Project Management Symposium on October 21, 2016; and;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 3, 2016, as **PROJECT MANAGEMENT INSTITUTE DAY** in Illinois in recognition of the contributions that project managers make to the economic vitality of our state.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-274****Week for the Animals**

WHEREAS, since its founding in 2003, Animal World USA has been dedicated to improving the lives of animals through advocacy, education, and community support; and,

WHEREAS, the Week for the Animals campaign brings communities together to celebrate the individuals who work tirelessly to help raise awareness; recognize the contributions of animals to our lives; and promote healthy, humane interactions between animals and humans; and,

WHEREAS, the week also serves to commend the therapy pets, farm animals, and military and police dogs that provide essential services to the citizens of our state; and,

WHEREAS, in Illinois, educators, students, community leaders, businesses, and citizens will join together to host the 2nd Annual Illinois Week for the Animals with a variety of educational

## PROCLAMATIONS

and interactive events, fairs, programs, wellness clinics, adoption days, benefits, and seminars to celebrate animals;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 15-23, 2016, as **WEEK FOR THE ANIMALS** in Illinois to increase awareness and recognize the welfare of all animals.

Issued by the Governor September 26, 2016

Filed by the Secretary of State October 17, 2016

**2016-275****National Bullying Prevention Month**

WHEREAS, bullying is physical, verbal, sexual, or emotional harm or intimidation intentionally directed at a person or group of people; and,

WHEREAS, bullying occurs in neighborhoods, playgrounds, schools, and through technology such as the internet and cell phones; and,

WHEREAS, various research has concluded that bullying is the most common form of violence, affecting millions of American children and adolescents every year; and,

WHEREAS, thousands of Illinois children and adolescents are affected by bullying annually; and,

WHEREAS, targets of bullying are more likely to acquire physical, emotional, and learning problems, and students who are repeatedly bullied often fear such activities as riding the bus, going to school, and attending community activities; and,

WHEREAS, children who bully are at greater risk of engaging in more serious violent behaviors; and,

WHEREAS, children who witness bullying often feel less secure, more fearful, and intimidated;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **NATIONAL BULLYING PREVENTION MONTH** in Illinois, and urge all Illinois schools, students, parents, recreation programs, religious institutions, and community organizations to engage in a variety of awareness and prevention activities, designed to make our communities safer for all children and adolescents.

Issued by the Governor September 27, 2016

## PROCLAMATIONS

Filed by the Secretary of State October 17, 2016

**2016-276**

**National Cyber Security Awareness Month**

WHEREAS, the State of Illinois recognizes that it plays a vital role in identifying, protecting its citizens from, and responding to cyber threats that may have a significant impact on our individual and collective security and privacy; and,

WHEREAS, critical infrastructure sectors are increasingly reliant on information systems and technology to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and,

WHEREAS, the Stop.Think.Connect.™ Campaign serves as the national cybersecurity public awareness campaign, implemented through a coalition of private companies, nonprofit and government organizations, as well as academic institutions working together to increase the understanding of cyber threats and empowering the American public to be safer and more secure online; and,

WHEREAS, the National Institute of Standards and Technology (NIST) Cybersecurity Framework and the U.S. Department of Homeland Security's Critical Infrastructure Cyber Community (C3) Voluntary Program have been developed as free resources to help organizations – large and small, both public and private – implement the NIST Cybersecurity Framework and improve their cybersecurity practices through a practical approach to addressing evolving threats and challenges; and,

WHEREAS, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role to play, and awareness of computer security essentials will improve the security of the State of Illinois's information, infrastructure, and economy; and,

WHEREAS, the President of the United States of America, the Illinois Department of Innovation & Technology, the U.S. Department of Homeland Security, the Multi-State Information Sharing and Analysis Center, the National Association of State Chief Information Officers, and the National Cyber Security Alliance all recognize October as National Cyber Security Awareness Month; all citizens are encouraged to visit these websites, along with Ready Illinois and the Stop.Think.Connect.™ Campaign website, to learn about cybersecurity and put that knowledge into practice in their homes, schools, workplaces, and businesses;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **NATIONAL CYBER SECURITY AWARENESS MONTH** in Illinois.

## PROCLAMATIONS

Issued by the Governor September 27, 2016

Filed by the Secretary of State October 17, 2016

**2016-277****AIDS Awareness Month**

WHEREAS, Acquired Immunodeficiency Syndrome (AIDS), the final stage in Human Immunodeficiency Virus (HIV) infection, occurs when an individual's immune system has been badly damaged and they become vulnerable to opportunistic infections; and,

WHEREAS, AIDS is diagnosed when a person infected with HIV has one or more opportunistic infections or their CD4 count drops below 200 cells/mm<sup>3</sup>; and,

WHEREAS, not everyone who has HIV will have AIDS; and,

WHEREAS, since the early 1980s, an estimated 1,210,835 people in the United States have been diagnosed with AIDS; and,

WHEREAS, although there is currently no cure for HIV or AIDS, those living with HIV and receiving treatment can live long and healthy lives; and,

WHEREAS, raising public awareness of these diseases will continue to facilitate the discovery of treatments, as well as bring much needed funding to support services for individuals and families affected by AIDS; and,

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **AIDS AWARENESS MONTH** in Illinois to increase knowledge of AIDS and allow the community at large to better support those living with AIDS.

Issued by the Governor September 28, 2016

Filed by the Secretary of State October 17, 2016

**2016-278****Down Syndrome Awareness Month**

WHEREAS, Down syndrome is the most commonly occurring chromosomal condition in the United States, including Illinois, and the world; and,

WHEREAS, Down syndrome is caused by a person having three copies of the 21st chromosome rather than two copies, a genetic condition causing cognitive and physical delays, occurring in fewer than one of 700 live births; and,

## PROCLAMATIONS

WHEREAS, people with Down syndrome deserve fundamental human and civil rights; and,

WHEREAS, while research and early intervention have resulted in dramatic improvements in the lifespan and potential of those who are affected, more examination is needed into the causes and treatments of Down syndrome; and,

WHEREAS, people with Down syndrome possess a wide range of abilities, and are active participants in educational, occupational, social, and recreational groups in their communities; and,

WHEREAS, through the efforts of several notable organizations, professionals, family members, and self-advocates, there are many initiatives that ensure people with Down syndrome receive adequate services and are respected in their communities; and,

WHEREAS, through public awareness, the State of Illinois seeks to ensure families receive needed support and information, while also making sure individuals with Down syndrome are recognized in society for their abilities and not devalued for their disability;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **DOWN SYNDROME AWARENESS MONTH** in Illinois, and encourage all citizens to work together to promote awareness of Down syndrome and to celebrate the accomplishments of these individuals and their families.

Issued by the Governor September 28, 2016

Filed by the Secretary of State October 17, 2016

**2016-279****Pregnancy and Infant Loss Remembrance Day**

WHEREAS, each year, approximately one million pregnancies in the United States end in miscarriage or stillbirth, and nearly 30,000 children die in infancy; and,

WHEREAS, it is a great tragedy to lose the life of a child; and,

WHEREAS, even the shortest lives are valuable, and the grief of those who mourn the loss of these lives should be acknowledged and supported; and,

WHEREAS, the observance of Pregnancy and Infant Loss Remembrance Day may provide validation to those who have lost a baby through miscarriage, stillbirth, or other complications,

## PROCLAMATIONS

and helps increase our understanding of the great tragedy involved in the deaths of unborn and newborn babies; and,

WHEREAS, this national observance also enables us to consider how, as individuals and communities, we can meet the needs of bereaved parents and family members and work to prevent the causes of these tragic deaths;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 15, 2016, as **PREGNANCY AND INFANT LOSS REMEMBRANCE DAY** in Illinois, and encourage all citizens to support families who have lost a child during pregnancy or infancy, as these families honor their children's memory.

Issued by the Governor September 28, 2016

Filed by the Secretary of State October 17, 2016

**2016-280****National Sudden Infant Death Syndrome Awareness Month**

WHEREAS, Sudden Infant Death Syndrome (SIDS) refers to the death of a seemingly healthy baby, less than a year old, that is unexplained and often occurs during sleep; and,

WHEREAS, SIDS is the leading cause of death in infants aged one to 12 months; and,

WHEREAS, the cause of SIDS is unknown, but may be related to abnormalities in a baby's brain located in the area responsible for breathing and arousal during sleep; and,

WHEREAS, many studies have also found that the risk of SIDS increases when infants sleep on their stomachs; and,

WHEREAS, the American Academy of Pediatrics began the Safe to Sleep campaign in 1994, which encourages the practice of putting infants one year and younger to sleep on their backs; and,

WHEREAS, since the beginning of the Safe to Sleep campaign, the rate of SIDS has dropped by more than 50 percent;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **NATIONAL SUDDEN INFANT DEATH SYNDROME AWARENESS MONTH** in Illinois to raise awareness about SIDS and to encourage infant safe sleep practices so that no parent will have to endure the tragedy of infant death.

## PROCLAMATIONS

Issued by the Governor September 28, 2016

Filed by the Secretary of State October 17, 2016

**2016-281****National Dropout Prevention Month**

WHEREAS, every year, more than 1.2 million students drop out of high school in the United States alone, which is a student every 26 seconds and 7,000 students a day; and,

WHEREAS, about 25 percent of high school freshmen fail to graduate from high school on time, and nearly 2000 high schools across the nation graduate less than 60 percent of students; and,

WHEREAS, a high school dropout will earn \$200,000 less than a high school graduate and almost a million dollars less than a college graduate during their lifetime; and,

WHEREAS, the month of October is dedicated to calling attention to the need for dropout prevention efforts nationwide and stressing the need for dropout prevention research and model programs until the nation's dropout rate reaches zero; and,

WHEREAS, since 1986, graduation rates have improved nearly 10 percent across the country, but there is still much work to be done to increase this statistic; and,

WHEREAS, by creating and implementing more effective strategies for students, families, and educators, more students can obtain their diploma and gain access to a better future; and,

WHEREAS, the youth of today deserve the brighter future a high school diploma helps ensure;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2016 as **NATIONAL DROPOUT PREVENTION MONTH** in Illinois, and encourage students, families, and communities to adopt strategies that will support students and help them reach their high school graduation.

Issued by the Governor September 30, 2016

Filed by the Secretary of State October 17, 2016

**2016-282****Keep Chicago Beautiful Day**

WHEREAS, Keep Chicago Beautiful was established on June 11, 1987, in order to sustain and improve the quality of life for individuals on this Earth by protecting the environment for those

## PROCLAMATIONS

who inhabit it, by pledging to reduce, reuse, and recycle, and to spread their work to those throughout the city, state, and nation; and,

WHEREAS, Keep Chicago Beautiful has successfully founded the nationwide program known as "Waste in Place" which educates younger generations on the importance of reducing, reusing, and recycling, as well as the advantages of eradicating litter to clean up Chicago; and,

WHEREAS, this organization understands the importance of maintaining a beautiful environment, leading by example through its efforts with the city of Chicago, and appreciates the significance of educating those who will nurture the environment for years to come; and,

WHEREAS, it is fitting and proper to officially recognize this organization for its efforts to preserve our environment and to keep it beautiful; and,

WHEREAS, on October 14, 2016, Keep Chicago Beautiful will celebrate its 29th Annual Vision Awards Event;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 14, 2016, as **KEEP CHICAGO BEAUTIFUL DAY**, and call upon all citizens to observe the day by becoming familiar with the actions that harm the environment and measures that can be taken to ensure that we maintain and preserve the beautiful environment in which we live.

Issued by the Governor October 3, 2016

Filed by the Secretary of State October 17, 2016

**2016-283****NET Cancer Awareness Day**

WHEREAS, neuroendocrine tumors (NETs) often develop into cancer and, if left untreated, can result in serious illness and death; and,

WHEREAS, all too often, healthcare professionals underestimate the malignant and metastatic potential of neuroendocrine tumors; and,

WHEREAS, NET cancer patients are often misdiagnosed or receive a delayed diagnosis, which can have a negative impact on their chance of survival and quality of life; and,

WHEREAS, survival for NET cancer patients is further compromised by fragmented care and lack of access to treatment by networks of specialists; and,

## PROCLAMATIONS

WHEREAS, although there have been advances in the detection and treatment of NET cancers, not all patients benefit quickly enough from scientific and medical progress in the field; and,

WHEREAS, with timely diagnosis and proper treatment, NET cancer patients can have significantly improved outcomes and quality of life;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 10, 2016, as **NET CANCER AWARENESS DAY** in Illinois, and encourage patients, caregivers, healthcare professionals, as well as the wider community to work together to raise awareness about NET cancers and the need for timely diagnosis and access to optimal treatment and care.

Issued by the Governor October 3, 2016

Filed by the Secretary of State October 17, 2016

**2016-284****Suits for Soldiers Day**

WHEREAS, Farmers Insurance was founded in 1928 by Thomas E. Leavey and John C. Tyler, both World War I veterans; and,

WHEREAS, Farmers® has been named one of the Top 150 Military Friendly employers in the United States and one of the Top 50 Military Spouse Friendly Employers by GI Jobs magazine; and,

WHEREAS, Farmers has many relationships with military organizations to support veteran hiring and has a signed statement of support with Employer Support of the Guard and Reserve (ESGR); and,

WHEREAS, Farmers provides bonus incentive opportunities for veterans who build or buy a Farmers agency; and,

WHEREAS, Farmers also develops and further engages its veteran and other employees with a Veterans and Advocates Employee Resource Group; and,

WHEREAS, Farmers has already collected and donated more than 8,000 suits to veterans transitioning out of the military through the Farmers Suits for Soldiers Program; and,

WHEREAS, Farmers will launch Suits for Soldiers nationally on October 18, 2016, with the goal of collecting 50,000 suits across the United States to help transitioning veterans enter the work force with professional attire; and,

## PROCLAMATIONS

WHEREAS, veterans transiting to civilian life frequently lack the money to buy the professional attire necessary to interview for civilian jobs;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 18, 2016, as **SUITS FOR SOLDIERS DAY** in Illinois, and congratulates Farmers Insurance for its significant contributions to our veterans.

Issued by the Governor October 3, 2016

Filed by the Secretary of State October 17, 2016

**2016-285****World Pancreatic Cancer Day**

WHEREAS, in 2016, an estimated 53,070 people in the United States will be diagnosed with pancreatic cancer – one of the deadliest cancers – and 41,780 will die from the disease; and,

WHEREAS, pancreatic cancer surpassed breast cancer this year to become the third leading cause of cancer death in the United States, and it is projected to become the second leading cause by 2020; and,

WHEREAS, pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just eight percent; and,

WHEREAS, when symptoms of pancreatic cancer present themselves, it is generally in later stages, and 71 percent of pancreatic cancer patients die within the first year of their diagnosis; and,

WHEREAS, approximately 1,640 deaths will occur in Illinois in 2016 due to pancreatic cancer; and,

WHEREAS, pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world; and,

WHEREAS, there will be an estimated 418,451 new pancreatic cancer cases diagnosed worldwide in 2020; and,

WHEREAS, the health and well-being of the residents of Illinois are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments;

## PROCLAMATIONS

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 17, 2016, as **WORLD PANCREATIC CANCER DAY** in Illinois to foster public awareness of pancreatic cancer and encourage early detection and proper treatment.

Issued by the Governor October 3, 2016

Filed by the Secretary of State October 17, 2016

**2016-286****Childhood Lead Poisoning Prevention Week**

WHEREAS, in 2015, 500,000 children in the United States were estimated to have blood lead levels greater than the intervention level recommended by the U.S. Centers for Disease Control and Prevention (CDC); and,

WHEREAS, Illinois identified more than 10,000 children with confirmed blood lead levels greater than the intervention level recommended by the CDC; and,

WHEREAS, the major source of lead exposure among Illinois children continues to be lead-contaminated dust and lead-based paint banned in 1978; and,

WHEREAS, Illinois passed the Lead Poisoning Prevention Act in 1973 to set mandatory assessment, testing, and reporting requirements in addition to establishing the Lead Poisoning Prevention Program in the Illinois Department of Public Health to monitor the identification and treatment of lead poisoned children; and,

WHEREAS, Illinois is pleased to join with health care professionals, agencies, and their delegates in observance of National Lead Poisoning Prevention Week, and in an effort to increase awareness and promote prevention of lead poisoning in children;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 23-29, 2016, as **CHILDHOOD LEAD POISONING PREVENTION WEEK** in Illinois and encourage all citizens to recognize the prevalence of lead poisoning in our society and to join in working toward eradication of this unfortunate and preventable condition.

Issued by the Governor October 5, 2016

Filed by the Secretary of State October 17, 2016

**2016-287****Flag Lowering Order for Officer Blake Snyder**

## PROCLAMATIONS

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of law enforcement who selflessly serve to protect our lives and keep our families safe; and,

WHEREAS, every day, these men and women face great risks and in many cases put their safety on the line to perform their duties; and,

WHEREAS, on Thursday, October 6, 2016, Saint Louis County police officer Blake Snyder died in the line of duty; and,

WHEREAS, a native of Godfrey, Illinois, and current resident of Edwardsville, Officer Blake Snyder devoted his life to public service. He joined the Saint Louis County Police Department in July 2012 and previously worked in the parks and recreation department in his hometown of Godfrey; and,

WHEREAS, throughout his career in law enforcement, Officer Blake Snyder represented the State of Illinois admirably and will always be remembered for the countless lives he impacted; and,

WHEREAS, a funeral service will be held on Thursday, October 13, 2016, at the Saint Louis Family Church in Chesterfield, Missouri, for Officer Blake Snyder;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff starting Tuesday, October 11, 2016, until sunset on Thursday, October 13, 2016, in honor and remembrance of Officer Blake Snyder whose selfless service and sacrifice is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor October 7, 2016

Filed by the Secretary of State October 17, 2016

**2016-288**  
**Great ShakeOut Day**

WHEREAS, earthquake preparedness is important because Illinois is adjacent to two major earthquake zones, the New Madrid and Wabash Valley; in 1811 and 1812, some of the largest earthquakes ever to occur in the continental United States took place in the New Madrid Seismic Zone, creating widespread destruction in the Central U.S.; and,

WHEREAS, in addition to the earthquake risks in the state, Illinois residents often travel to regions of the country and the world where earthquakes may occur; and,

## PROCLAMATIONS

WHEREAS, on October 20, 2016, at 10:20 a.m., millions of people from throughout the United States and across the world will participate in The Great ShakeOut earthquake drill, during which they will practice the "Drop, Cover, and Hold On" actions that could prevent injury or death during an earthquake; and,

WHEREAS, participants in the drill will take a few moments to drop down to the ground, take cover under a desk or other heavy furniture, and hold on to that piece of furniture, just as they should do when the earth starts shaking in an actual earthquake; and,

WHEREAS, people can register for The Great U.S. ShakeOut at [www.shakeout.org](http://www.shakeout.org), where they can also learn more about earthquake hazards and steps they can take to make their homes more earthquake resistant; and,

WHEREAS, all Illinois residents, schools, businesses, college campuses, government agencies, organizations, and other groups are encouraged to practice the drop, cover and hold on actions during the ShakeOut drill at 10:20 a.m. on October 20, 2016;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 20, 2016, as **GREAT SHAKEOUT DAY** in Illinois, and encourage every Illinois resident to participate in this important earthquake drill.

Issued by the Governor October 11, 2016

Filed by the Secretary of State October 17, 2016

**2016-289****Nobel Prize for Sir Fraser Stoddart, Northwestern University**

WHEREAS, on Wednesday, October 5, 2016, Sir Fraser Stoddart, Board of Trustees Professor of Chemistry at the Weinberg College of Arts and Sciences at Northwestern University, was awarded the Nobel Prize in Chemistry; and,

WHEREAS, Professor Stoddart joined two other professors, Jean-Pierre Sauvage of the University of Strasbourg, France, and Bernard L. Feringa of the University of Groningen, the Netherlands, in winning the prize for their design and synthesis of molecular machines; and,

WHEREAS, The Royal Swedish Academy of Sciences credited these three researchers with developing "molecules with controllable movements, which can perform a task when energy is added"; and,

WHEREAS, Professor Stoddart was awarded the prize based on his 1991 development of a rotaxane, which threaded a molecular ring onto a thin molecular axle and demonstrated that the

## PROCLAMATIONS

ring was able to move along the axle. Among his developments based on rotaxanes are a molecular lift, a molecular muscle, and a molecule-based computer chip; and,

WHEREAS, Professor Stoddart's transformative innovation changed the way chemists create soft materials, making him one of only a few chemists to open up a new field of chemistry during the past 25 years; and,

WHEREAS, the students, staff, professors, and alumni of Northwestern University should be proud to hail from an institution where they can learn from innovators who make such seminal achievements in the history of the chemical sciences;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby congratulate **SIR FRASER STODDART** for admirably representing the State of Illinois and offer best wishes for much continued success in the future.

Issued by the Governor October 14, 2016

Filed by the Secretary of State October 17, 2016

## EXECUTIVE ORDER

**2016-12****EXECUTIVE ORDER RESCINDING EXECUTIVE ORDER NUMBER 2 (2004)**

WHEREAS, Executive Order Number 2 (2004), issued by Governor Rod Blagojevich, purported to consolidate certain media relations functions of State agencies directly responsible to the Governor under the jurisdiction of the Department of Central Management Services ("CMS"); and

WHEREAS, a review of media relations functions of State agencies by the Office of the Governor, State agencies, and CMS has concluded that media relations functions continue to exist appropriately within State agencies, making Executive Order Number 2 (2004) ineffective and unnecessary;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

**I. REVOCATION**

Executive Order Number 2 (2004) is revoked and rescinded, effective immediately upon the filing of this Executive Order with the Secretary of State.

**II. SAVINGS CLAUSE**

This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

**III. PRIOR EXECUTIVE ORDERS**

This Executive Order supersedes any contrary provision of any other prior Executive Order.

**IV. SEVERABILITY CLAUSE**

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

Issued by Governor: October 14, 2016

Filed with Secretary of State: October 14, 2016

## EXECUTIVE ORDER

**2016-13**  
**EXECUTIVE ORDER ESTABLISHING**  
**THE ILLINOIS COMPETITIVENESS COUNCIL**

**WHEREAS**, in the World Economic Forum's Global Competitiveness Report, international economic experts found that "[g]overnment attitudes toward markets and freedoms and the efficiency of its operations" are "very important" to "sustaining prosperity and raising the well-being of its citizens"; and

**WHEREAS**, the World Economic Forum also found that "excessive bureaucracy and red tape, overregulation, corruption, dishonesty in dealing with public contracts, lack of transparency and trustworthiness, inability to provide appropriate services for the business sector and political dependence on the judicial system impose significant economic costs to businesses and slow the process of economic development"; and

**WHEREAS**, by statutory mandates, administrative rules, licensing requirements, and internal agency policies, the State of Illinois has placed a tremendous regulatory burden on its citizens, social service providers and businesses that increase the cost of doing business in Illinois, stretch the resources of social service providers and prevent our citizens from obtaining critical services in a timely manner; and

**WHEREAS**, burdensome and unnecessary regulations, policies, and licensing requirements impose a disproportionate economic impact on small businesses and, according to one study published by the State of California, add as much as \$134,000 in additional expenses on every small business each year; and

**WHEREAS**, Illinois trails other states, such as Arizona, Colorado, Florida, Indiana, Kentucky, Massachusetts, Michigan, New Jersey, and Wisconsin, which have implemented comprehensive reviews and reforms of anti-competitive laws, rules, and policies that impose unnecessary costs on their businesses and citizens, giving those states a competitive edge over Illinois when it comes to attracting businesses and entrepreneurs; and

**WHEREAS**, government regulations should promote economic development, increase government effectiveness, and help our most vulnerable citizens obtain services in an efficient and expeditious manner; and

**WHEREAS**, Illinois' regulatory process should be transparent and take into account public input, and agencies should be responsive to regulated communities to ensure compliance; and

## EXECUTIVE ORDER

**WHEREAS**, many of the State's agencies have outdated, redundant or inconsistent regulations, resulting in an inconsistent and unnecessary regulatory framework across the State and public frustration; and

**WHEREAS**, licensing rules cause those seeking a license a delay in pursuing their chosen profession and create anti-competitive barriers to entry into the marketplace; and

**WHEREAS**, there is no clear, concise guidance for drafting and implementing new policies and regulations and therefore, state agencies apply an inconsistent patchwork of anti-competitive standards to the rule making process; and

**WHEREAS**, a comprehensive review of existing administrative rules and internal agency policies is essential to determine their current necessity and relieve citizens, businesses and social service providers from the crush of unnecessary, outdated and inconsistent regulations; and

**WHEREAS**, Illinois' government should strive for the most legally-grounded, least onerous, least costly and most efficient and effective body of administrative law possible; and

**WHEREAS**, without compromising the health, safety or welfare of Illinois' citizens, this review should result in the elimination or simplification of unnecessary or unduly burdensome and anti-competitive administrative rules and policies; and

**THEREFORE**, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

## **I. CUTTING THE RED TAPE**

All agencies, boards, commissions, and authorities of the Executive Branch of the State of Illinois under the jurisdiction of the Governor (each an "Agency") shall conduct a comprehensive review of their administrative rules and policies, (collectively "Regulations"), as part of the Cutting the Red Tape Initiative. All other State agencies are also urged to conduct a similar review. In conducting such review, each Agency shall ensure that all current and new regulations meet the following guidelines:

1. Regulation is up to date and reflective of current Agency functions and programs.
2. Regulation is drafted in such a way as to be understood by the general public. Regulations should be clear, concise and drafted in readily understood language. Regulations should not create legal uncertainty.

## EXECUTIVE ORDER

3. Regulation is consistent with other rules across Agencies. Agencies should coordinate to ensure rules are not conflicting or have duplicative requirements.
4. Regulation should not cause an undue administrative delay or backlog in processing necessary paperwork for businesses or citizens.
5. Regulation does not impose unduly burdensome requirements on business, whether through time or cost, or have a negative effect on the State's overall job growth. In considering this criterion, the Agency should consider whether there are less burdensome alternatives to achieve the Regulation's purpose.
6. Regulation does not impose unnecessary burden on social service providers or recipients, whether through time or cost. In considering this criterion, the Agency should consider whether there are ways to revise the Regulation to make it easier for social service providers and recipients to provide or receive services.
7. There is a clear need and statutory authority for the Regulation. Regulation should not exceed the Agency's statutory authority and should be drafted so as to impose statutory requirements in the least restrictive way possible. In considering these criteria, the Agency should also consider whether the Regulation exceeds federal requirements or duplicates local regulations or procedures.

Each Agency shall complete their review of their administrative rules by May 1, 2017. Each Agency shall provide the Competitiveness Council established by this Executive Order with quarterly reports until such review is complete. Any current or proposed Regulation that does not meet each of the above criteria should be revised or repealed. Upon completion of the Agency's review, the Agency shall submit all revisions and repeals of administrative rules to the Joint Committee on Administrative Rules and the Secretary of State in accordance with the Administrative Procedure Act (5 ILCS 100). For any internal agency policy not required by the Administrative Procedure Act to be submitted to the Joint Committee on Administrative Rules and the Secretary of State, the Agency shall promptly process all revisions and appeals in accordance with Agency procedure.

## **II. ENSURING TRANSPARENCY AND PUBLIC INPUT**

Burdensome Regulations affect the public's ability to start and run a business, achieve desired employment, and receive and provide critical services. It is essential that Agencies work closely with the citizens they serve in order to ensure that those affected by government regulation have their voices heard. In order to ensure transparency and proper public input in Cutting the Red Tape, each Agency shall:

## EXECUTIVE ORDER

Solicit public feedback on rule revisions via an online public portal located at: [www.illinois.gov/cut](http://www.illinois.gov/cut) (the "Red Tape Reduction Portal"). Both businesses and individuals can submit feedback on burdensome regulations by filling out a simple online form at the portal.

Post those Regulations submitted to the Joint Committee on Administrative Rules on the Red Tape Reduction Portal.

**III. CREATION OF ILLINOIS COMPETITIVENESS COUNCIL**

There is hereby established the Illinois Competitiveness Council (the "Council") to oversee the Agency review of Regulations. The duties of the Council are as follows:

1. Ensure that Agencies are considering the factors listed in Section I when reviewing rules and policies;
2. Establish cost-savings estimates to both the public and private sector as a result of the Agencies' proposed revisions; and
3. Solicit public feedback on existing Regulations and serve as a liaison between Agencies and the public in the review process.

The Council shall consist of a representative of each of the following agencies:

1. The Governor's Office who shall serve as Chair of the Committee
2. The Governor's Office of Management and Budget
3. The Department of Agriculture
4. The Department of Commerce and Economic Opportunity
5. The Department of Financial and Professional Regulation
6. The Department of Healthcare and Family Services
7. The Department of Human Services
8. The Department of Insurance
9. The Department of Natural Resources
10. The Department of Public Health
11. The Department of Revenue

The Council shall sunset on January 1, 2018.

**IV. SAVINGS CLAUSE**

This Executive Order does not contravene, and shall not be construed to contravene, any federal law, state statute, or collective bargaining agreement.

## EXECUTIVE ORDER

**V. PRIOR EXECUTIVE ORDERS**

This Executive Order supersedes any contrary provision of any other prior Executive Order.

**VI. SEVERABILITY CLAUSE**

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

**VII. EFFECTIVE DATE**

This Executive Order shall take effect immediately upon filing with the Secretary of State.

Issued by the Governor: October 17, 2016

Filed with the Secretary of State: October 17, 2016

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 40, Issue 44 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

35 - 360	.....	14374
35 - 363	.....	14386
35 - 661	.....	14404
38 - 190	.....	14443
68 - 1400	.....	14490
68 - 1400	.....	14519
80 - 1200	.....	14568
80 - 1230	.....	14574
35 - 307	.....	14580
35 - 310	.....	14602

**ADOPTED RULES**

77 - 1130	10/14/2016	.....	14647
50 - 4404	10/17/2016	.....	14751
2 - 2500	10/12/2016	.....	14757
86 - 100	10/12/2016	.....	14762

**EXECUTIVE ORDERS AND  
PROCLAMATIONS**

16 - 262	9/23/2016	.....	14787
16 - 263	9/26/2016	.....	14787
16 - 264	9/26/2016	.....	14788
16 - 265	9/26/2016	.....	14789
16 - 266	9/26/2016	.....	14790
16 - 267	9/26/2016	.....	14791
16 - 268	9/26/2016	.....	14792
16 - 269	9/26/2016	.....	14793
16 - 270	9/26/2016	.....	14794
16 - 271	9/26/2016	.....	14795
16 - 272	9/26/2016	.....	14796
16 - 273	9/26/2016	.....	14796
16 - 274	9/26/2016	.....	14797
16 - 275	9/27/2016	.....	14798
16 - 276	9/27/2016	.....	14799
16 - 277	9/28/2016	.....	14800
16 - 278	9/28/2016	.....	14800
16 - 279	9/28/2016	.....	14801
16 - 280	9/28/2016	.....	14802
16 - 281	9/30/2016	.....	14803
16 - 282	10/3/2016	.....	14803
16 - 283	10/3/2016	.....	14804
16 - 284	10/3/2016	.....	14805
16 - 285	10/3/2016	.....	14806

16 - 286	10/5/2016 .....	14807
16 - 287	10/7/2016 .....	14807
16 - 288	10/11/2016 .....	14808
16 - 289	10/14/2016 .....	14809
16 - 12	10/14/2016 .....	14811
16 - 13	10/17/2016 .....	14812

## ORDER FORM

<input type="checkbox"/> Print Version of the Illinois Register <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register (1977 – 2004) Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Yearly Index Cumulative/Sections Affected Indices (Current Year)	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
<b>TOTAL AMOUNT OF ORDER</b>	\$ _____

Check    Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover    (There is a \$2.00 processing fee for credit card purchases.)  Card #: _____ Expiration Date: _____  Signature: _____
---

**Send Payment To:** Secretary of State                      E-mail: eAdministrativeCode@ilsos.net  
 Department of Index    Phone: (217) 782-7017  
 Administrative Code Division  
 111 E. Monroe  
 Springfield, IL 62756

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State  
[www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)